

**Before the
Federal Communications Commission
Washington DC 20554**

In the Matter of:

)	
Request for Review of Administrator's Decision)	
And/or Petition for Waiver of FCC Rules -)	Administrator's decision November 6, 2009
Kingsville Independent School District)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

Request for Review or Waiver

In accordance with Sections 54.719 through 54.721 of the Commission's Rules, now comes Kingsville Independent School District, Texas (Kingsville) before the Federal Communications Commission (Commission) requesting review or waiver of the Administrator's Decision on Appeal of a Commitment Adjustment (COMAD) by the Universal Service Administrative Company (Administrator). This request comes before the Commission in a timely manner from the Administrator's Decision on appeal dated November 6, 2009.

Applicant Name: Kingsville Independent School District
Billed Entity Number: 141586
FCC RN: 0011899273
Service Provider: SBC Datacomm, Inc
SPIN: 143004812
Funding Year: 2003
Form 471 Application Numbers: 369934
Funding Request Numbers: 1043026, 1043201, 1043284, 1043345, 1043393, 1043491, 1043533, and 1043598
Commitment Adjustment: \$349,664.70

Reason for Commitment Adjustment:

During the course of a review it was determined that the applicant did not have a contract or legally binding agreement in place at the time of submission of the Form 471. This determination was based on the applicant's response to the request for a binding agreement at the time of the Form 471 filing with a signed purchase order dated June 24, 2004 and a signed statement of work dated June 23, 2004, which were both after the form 471 certification date of February 6, 2003. FCC rules require applicants to have a valid contract as defined by the applicants' state procurement laws and regulations at the time they submit the Form 471. Since the applicant was unable to demonstrate that they had a contract in place at the time of submission of the Form 471

that meets the state laws' definition of a valid contract, the commitment has been rescinded in full.¹

Kingsville Independent School District

Kingsville Independent School District (Kingsville) is a low-wealth, socio-economically challenged school system comprised of approximately 4,500 students spread over nine campuses, eight elementary and one secondary, in extreme Southwestern Texas. Kingsville ISD has a strong need for technology resources and the District has applied for E-Rate funding support each year since the inception of the program. Kingsville has requested funding only for eligible goods and services that were necessary for the effective education of our students. We submit applications in accordance with program rules in effect at the time, and attempt to comprehend and comply with those rules to the best of our ability. We have been successfully awarded funding in each and every year of the E-rate program. Kingsville has never attempted to waste program resources, abuse program rules, or defraud the program by applying for unnecessary or "gold-plated" goods and services.

Background

In the autumn of 2002, Kingsville submitted timely Form 470s for eligible goods and services for FY2003, including one for equipment for network upgrades at all 9 District facilities. After the required 28 days had passed, Kingsville had received only one bid for the cost of network upgrade equipment, a price sheet from SBC Datacomm (Attachment 1-SBC price sheet as included with Item 21) through the Texas Department of Information Resources (DIR) State Master Contract: *TEXAN 2000-SWB-EPI* (Attachment 2). At subsequent meetings in late January 2003, prior to the preparation and submission of the Form 471, Kingsville technology and fiscal staff determined that the SBC Datacomm bid was the only bid and since it was offered through a State Master Contract, concluded that they had complied with State procurement laws, that the service was most cost-effective and that SBC Datacomm would be the service provider (Attachment 3).

Kingsville moved forward and submitted a timely Form 471 (#369934) on February 6, 2003, with multiple funding requests (see FRNs above) requesting discounts on eligible equipment and installations from SBC Datacomm. The application was reviewed by PIA, found to be in compliance with rules and procedures in place at the time, and the FRNs were fully funded on March 3, 2004. SBC Datacomm was notified, appropriate Form 486s filed and work was completed in May and June 2004. Final purchase orders and statements of work were issued and signed in late June, the applicant's portion paid to SBC Datacomm and the discount portion recovered through the SPI process.

¹ USAC "Notification of Commitment Adjustment Letter" April 17, 2009

As part of their oversight responsibilities the Administrator initiated a “Site Visit” to Kingsville in April 2006. During the Site Visit, Bearing Point reported to the Administrator that Kingsville did not provide a signed contract for one of the FRNs in question. Follow-up correspondence with Schools and Libraries Division (SLD) External Relations staff continued over almost three years, extending to all FY2003 FRNs with SBC Datacomm as service provider, until the Administrator concluded that the applicant was unable to demonstrate that they had a contract in place at the time of submission of the Form 471 and sent Kingsville a Notification of Commitment Adjustment Letter.

Kingsville appealed the April 17, 2009, Notification of Commitment Adjustment Letter in a timely manner on June 16, 2009 (Attachment 4) arguing that they were under the impression that they did have an agreement with SBC Datacomm in place to provide services described in the FRNs prior to the filing of the Form 471 but they were unable to provide a paper copy of the agreement to SLD due to staff changes and building relocations resulting in incomplete record-keeping and loss of documents. Kingsville did provide the SBC Datacomm bid sheet (Attachment 1), the Texas DIR State Master Contract *TEXAN 2000-SWB-EPI* (Attachment 2), and testimony of Karen Griffith, then Finance Director for Kingsville (Attachment 3) to support its contention.

The Administrator denied the Appeal on November 6, 2009, stating: “You did not provide evidence with your appeal that, at the time you filed the Form 471, you had a signed contract or legally binding agreement for eligible services. Consequently, SLD denies your appeal.” (Attachment 5)

Discussion

Kingsville believes that, given the complexity and changeability of E-rate rules and requirements, we complied with rules and regulations as we knew them at the time. Only one bid was received for the goods and services in question, that of SBC Datacomm. SBC Datacomm was an approved provider through a competitively bid Texas DTI State Master Contract (Attachment 2). Kingsville understood that it could request goods and services off the State Master Contract without further competitive bidding under Texas law since the State had already competitively bid the contract and secured the most cost-effective provider.

The statement of Karen Griffith (Attachment 3) indicates that senior Kingsville staff selected the single bid of SBC Datacomm as the only potential service provider and had accepted SBC Datacomm’s pricing for the requested goods and services prior to filing the Form 471, as rules require. Further circumstantial evidence suggests that Kingsville did have an agreement with SBC Datacomm for the FRNs in question: Kingsville discovered and provided a FAX cover sheet sent to the SBC Datacomm Education Sales Representative, Richard Atwell, the text of

which states: “Richard, Here is the signed contract – Thanks, Dorothy” (“Dorothy” is Dorothy Stroeck, Kingsville’s Director of Technology at the time) (Attachment 6.)

Kingsville notes precedent in the Commission’s Adams County Order² where 66 appeals were either granted or relevant Commission rules waived based on individual circumstances. In particular, the Commission cited several instances where: Although the Petitioners missed the deadline for evidencing a signed contract, they had legally binding contracts in place during the relevant funding years. Thus, all Petitioners had some form of an agreement with their service providers before submitting their Forms 471.³

We believe there is significant evidence to indicate that Kingsville complied with the requirements and spirit of the Universal Service provisions of the Telecom Act of 1996 and FCC rules implementing those provisions. The Fifth Report and Order and numerous other Commission E-Rate orders acknowledge the complexity of the E-rate Program and the need for applicant training. In this case, Kingsville made a good faith effort to comply with E-rate regulations while also complying with local procurement regulations. We are hopeful that, since Kingsville utilized the State Master Contract service provider following state law, the inability to produce the actual signed contract will not result in recovery of funds.⁴

Kingsville notes that the equipment and services were necessary to upgrade the network to provide economical and advanced curriculum content and learning opportunities to students and are still in place today. We stress the fact that the prices paid for the equipment and services here under appeal reflect the prices negotiated by the State and were reasonable by any measure. We also stress that services and equipment installed were not excessive and reflected the actual needs of Kingsville ISD. There was absolutely no waste, fraud, or abuse of program resources.

Conclusion

Kingsville made a good faith effort to comply with E-rate regulations when selecting SBC Datacomm as the most cost-effective provider of the goods and services described in the FRNs under review. All equipment was installed and is in place today. Goods and services were reasonably priced and no attempt was made to waste, abuse or defraud the program by Kingsville. We paid our share of invoices in accordance with program rules in a timely manner.

In that regard, considering the gravity and severe economic consequences of a potential Commitment Adjustment on our low-wealth district, we respectfully ask the Commission to overturn the COMAD upon review or to waive relevant regulations Kingsville may have

² "Adams County School District Number 14, FCC 07-35, Rel. March 28, 2007"

³ Ibid, at Para 9

⁴ FCC Letter of January 16, 2009, "Table C" Recovery Issues: ".....USAC should not recover funding if there was a binding agreement that was legal under state law."

unintentionally violated when contracting for these services, and direct the Administrator to terminate any further attempt to recover funds through COMAD.

Respectfully Submitted this 4th day of January, 2010,

/s/

Emilio Castro
Superintendent
Kingsville Independent School District
P.O. Box 871 / 207 N Third
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(361) 592-3387

J. Diego Vázquez-Cruz
Instructional Technology Director
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Submitted by:

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E-Rate Central – Midwest
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ATTACHMENT 1

SBC DATACOMM PRICE SHEET

KINGSVILLE ISD

Kingsville ISD E-rate round 6
Southwestern Bell SPIN # 143004662.

**Administration****Administration -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty.</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Price</u>
WS-C6509	Catalyst 6509 Chassis	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
WS-CAC-1300W	Catalyst 6000 1300W AC Power Supply	1	40%	\$3,995.00	\$ 2,397.00	\$ 2,397.00
WS-CAC-1300W/2	Catalyst 6000 Second 1300W AC Power Supply	1	40%	\$3,995.00	\$ 2,397.00	\$ 2,397.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
S6S22ZK2-12113E	Catalyst 6000 SUP2/MSFC2 IOS SP W/VIP SSH 3DES	1	40%	\$0.00	\$ -	\$ -
WS-X6K-S2U-MSFC2	Cat6K Sup2 with 256MB DRAM on Sup2 and MSFC2	1	40%	\$26,795.00	\$ 16,077.00	\$ 16,077.00
MEM-C6K-ATA-1-64M	Cat 6500 Supervisor ATA Type1 Flash Mem Card, 64MB	2	40%	\$400.00	\$ 240.00	\$ 480.00
WS-X6K-S2U-MSFC2/2	Redundant WS-X6K-S2U-MSFC2 (In Chassis Only)	1	40%	\$26,795.00	\$ 16,077.00	\$ 16,077.00
WS-X6408A-GBIC	Catalyst 6000 8-port GE, Enhanced QoS (Req. GBICs)	2	40%	\$9,995.00	\$ 5,997.00	\$ 11,994.00
WS-X6148-RJ45V	Catalyst 6500 48-port 10/100 Inline Power, RJ-45	3	40%	\$7,495.00	\$ 4,497.00	\$ 13,491.00
WS-X6182-2PA	Catalyst 6000 FlexWAN Module	1	40%	\$15,000.00	\$ 9,000.00	\$ 9,000.00
PA-MC-8T1	8 port multichannel T1 port adapter with integrated CSU/DSUs	1	40%	\$11,600.00	\$ 6,960.00	\$ 6,960.00
MEM-C6K-WAN-128M	Catalyst 6000 WAN Module Memory, 128 MB	2	40%	\$1,800.00	\$ 1,080.00	\$ 2,160.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	14	40%	\$500.00	\$ 300.00	\$ 4,200.00
MEM-MSFC2-256MB	MSFC2 256MB Memory Option	2	40%	\$2,400.00	\$ 1,440.00	\$ 2,880.00
CON-SNT-WS-C6509	8x5xNBD Service, Catalyst 6509	1	100%	\$6,500.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 1,265.00
SUB-TOTAL=					\$ 95,375.00	

HENRIETTA M. KING**Henrietta M. King -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot), fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV, (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
S4KL3E-12112EW	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF, IGRP, EIGRP)	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$ 240.00	\$ 240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	2	40%	\$5,995.00	\$ 3,597.00	\$ 7,194.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	1	40%	\$2,995.00	\$ 1,797.00	\$ 1,797.00

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	6	40%	\$500.00	\$	300.00	\$	1,800.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot), fan, no p	1	100%	\$2,638.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	660.00

Henrietta M. King -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	2	40%	\$4,995.00	\$	2,997.00	\$	5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	2	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	600.00

Henrietta M. King -- IDF2

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	3	40%	\$4,995.00	\$	2,997.00	\$	8,991.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	2	40%	\$500.00	\$	300.00	\$	600.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	3	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	900.00

Henrietta M. King -- IDF3

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Henrietta M. King -- IDF4

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=**\$ 67,200.00****MEMORIAL MIDDLE SCHOOL****Memorial Middle School -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot), fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV, (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00

* Firr* year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

S4KL3E-12112EW

	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF,IGRP,EIGRP)	1	40%	\$9,995.00	\$	5,997.00	\$	5,997.00
MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$	240.00	\$	240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	3	40%	\$5,995.00	\$	3,597.00	\$	10,791.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	1	40%	\$2,995.00	\$	1,797.00	\$	1,797.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	5	40%	\$500.00	\$	300.00	\$	1,500.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot),fan, no p	1	100%	\$2,638.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	660.00

Memorial Middle School -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	2	40%	\$4,995.00	\$	2,997.00	\$	5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	2	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	600.00

Memorial Middle School -- IDF2

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Memorial Middle School -- Lab

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=**\$ 59,532.00****GILLETTE INTERMEDIATE SCHOOL****Gillette Intermediate School -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot),fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE),Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV,(2 GE),Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
S4KL3E-12112EW	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF,IGRP,EIGRP)	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$	240.00	\$	240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	2	40%	\$5,995.00	\$	3,597.00	\$	7,194.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	2	40%	\$2,995.00	\$	1,797.00	\$	3,594.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	10	40%	\$500.00	\$	300.00	\$	3,000.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot), fan, no p	1	100%	\$2,638.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	660.00
Gillette Intermediate School -- IDF1								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00
Gillette Intermediate School -- IDF2								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00
Gillette Intermediate School -- IDF3								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00
Gillette Intermediate -- IDF4								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	2	40%	\$4,995.00	\$	2,997.00	\$	5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	2	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	600.00
IDF GYM								
WS-C2950G-12-EI	Catalyst 2950, 12 10/100 with 2 GBIC slots, Enhanced Image	1	40%	\$2,295.00	\$	1,377.00	\$	1,377.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C2950G12	8x5xNBD Svc, WS-C2950G-12	1	100%	\$ 200.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Gillette Intermediate -- 501

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

IDF #5

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

IDF 403

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

IDF #6

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=

\$ 79,668.00

KEYES ACADEMY**Keyes Academy -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>		<u>Disc. Price</u>		<u>Ext. Cost</u>
WS-C3550-48-EMI	48-10/100 and 2 GBIC ports:Enhanced Multilayer SW Image	1	40%	\$6,990.00	\$	4,194.00	\$	4,194.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	2	40%	\$500.00	\$	300.00	\$	600.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Keyes Academy -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=

\$ 8,691.00

PEREZ ELEMENTARY SCHOOL

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

Perez Elementary MDF

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot), fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV, (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
S4KL3E-12112EW	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF, IGRP, EIGRP)	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$ 240.00	\$ 240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	2	40%	\$5,995.00	\$ 3,597.00	\$ 7,194.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	1	40%	\$2,995.00	\$ 1,797.00	\$ 1,797.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	3	40%	\$500.00	\$ 300.00	\$ 900.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot), fan, no p	1	100%	\$2,638.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 660.00

Perez Elementary -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports: Std Multilayer SW Image	2	40%	\$4,995.00	\$ 2,997.00	\$ 5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$ 300.00	\$ 300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$ 237.00	\$ 474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports: Std Multilayer	2	100%	\$ 400.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 600.00

SUB-TOTAL=**\$ 48,141.00****Laser**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C3550-48-EMI	48-10/100 and 2 GBIC ports: Enhanced Multilayer SW Image	1	40%	\$6,990.00	\$ 4,194.00	\$ 4,194.00
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports: Std Multilayer SW Image	1	40%	\$4,995.00	\$ 2,997.00	\$ 2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$ 300.00	\$ 300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$ 237.00	\$ 474.00
CON-SNT-C3550-48E	8x5xNBD Svc, 48-10/100 and 2 GBIC ports: Enhanced Mult	1	100%	\$623.00		
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports: Std Multilayer	1	100%	\$ 400.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 600.00

SUB-TOTAL=**\$ 8,565.00****KLEBERG ELEMENTARY SCHOOL****Kleberg Elementary MDF**

<u>Product</u>	<u>Description</u>	<u>Quan</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
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* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

ATTACHMENT 2

Texas Department of Information Resources (DIR) State Master Contract:

TEXAN 2000-SWB-EPI

**TEXAN 2000 SALES
AGREEMENT
BETWEEN
THE STATE OF TEXAS, GENERAL SERVICES COMMISSION
AND
SOUTHWESTERN BELL TELEPHONE CO.
GSC Contract No. TEXAN 2000 – SWB – EPI**

This TEXAN 2000 Sales Agreement (the "Agreement") is made and entered into by and between the The State of Texas, General Services Commission, a state agency whose address is 1711 San Jacinto, Austin, Texas 78701 (the "GSC") and Southwestern Bell Telephone Co. ("Contractor"), a Missouri corporation, with offices at 175 E. Huntland, Austin, TX 78215.

The GSC is authorized to enter this Agreement pursuant to the Chapter 2170 of Title 10, Subtitle D of the Texas Government Code. In consideration of the mutual covenants and agreements, herein contained, the parties hereto agree to the following:

**ARTICLE I.
CONTRACT DOCUMENTS**

This Agreement and the documents, listed below, together constitute the Contract and shall be referred to as the Contract Documents. The referenced documents are as follows:

- 1) Request for Offer Number 99-TELE-2000 including all addenda (the "RFO"), Exhibit A hereto;
- 2) Contractor's Response to the RFO, Exhibit B hereto;

- 3) The Best and Final Offer (BAFO) for 99-TELE-2000, Exhibit C hereto;
- 4) Contractor Response to BAFO, Exhibit D hereto;
- 5) Contractor's post-BAFO submissions, Exhibit E hereto;
- 6) Clarification Document and its attachments, Exhibit F hereto; and
- 7) HUB Participation Information, Exhibit G hereto.

This Agreement shall be construed wherever possible to avoid conflict between and among the Articles hereof and the Exhibits hereto. Where a conflict cannot be avoided, the following descending order of precedence shall be observed in determining which of the Contract Documents contains the controlling provision::

- 1) This Agreement;
- 2) Exhibit G;
- 3) Exhibit F (as to particular goods or services);
- 4) Exhibit E;
- 5) Exhibit D;
- 6) Exhibit C;
- 7) Exhibit B; and
- 8) Exhibit A.

Exhibits A – E and G are on file in the Central Procurement Division of GSC.
Exhibit F is an attachment to this Agreement.

ARTICLE II.

DEFINITIONS

A. "Qualified Ordering Entities" or "QOE" means the GSC, other Texas State agencies and qualified political subdivisions of the State of Texas, as specified in the Exhibit F (Clarification Document). The parties to this Agreement reserve the right to amend this definition to facilitate use by other states and their agencies, consistent with Texas SB 1127, Acts of the 76th Legislature, effective June 18, 1999.

- B. "Purchase Order"** means the document issued by a QOE which specifies the quantity of goods and/or services to be provided by Contractor and as agreed to by Contractor under this Agreement (collectively, "Goods and Services"), as more particularly described in Exhibit F (Clarification Document). The terms and conditions of a Purchase Order govern the sales transaction between that QOE and the Contractor only as to the type, number, price and delivery and installation terms for the Goods and Services. To the extent the Purchase Order has other, preprinted provisions which are inconsistent with the Contract Documents, the Contract Documents prevail.
- C. "Clarification Document"** means a document created by Contractor and approved by GSC, which is consistent with Contractor's Response to the 99-TELE-2000 RFO, the BAFO and post-BAFO submissions, and which sets out clearly and concisely the scope of Goods and Services to be provided under this Agreement. The Clarification Document is Exhibit F to this Agreement.
- D. "Affiliate"** means an entity which controls, is under the control of, or under common control with Contractor, through ownership or by contract.
- E. "User"** means the individual officers, employees, contractors and agents of a QOE who are authorized by the QOE to use the Goods and Services available under this Agreement.

ARTICLE III.

GLOBAL SALES AGREEMENT

- A.** During the term of this Agreement, Contractor agrees to accept Purchase Orders from QOEs for any of the Goods and Services specified in Exhibit F

(Clarification Document), so long as the GSC Contract number and Contractor's contract number, if any, appears on the Purchase Order. Contractor agrees to fulfill the Purchase Orders consistent with the delivery and/or installation instructions issued by the QOE and to perform in accordance with the covenants and warranties specified in this Agreement.

- B. This Agreement guarantees no minimum quantity of orders for Goods and Services to Contractor. Contractor may not establish any limits on use of this Agreement by QOEs without the prior written consent of GSC.
- C. Contractor shall report no less than quarterly on all Goods and Services ordered under this Agreement, including in such reports the identity of the QOE per order, the date of order, quantity of each type of Goods and Services ordered, price, usage and other data as may be agreed between GSC and the Contractor. Contractor agrees to coordinate with GSC on the format of such reports and to work diligently to agree on such format within 60 days of the effective date of this Agreement.
- D. Goods and Services ordered under this Agreement may only be used for official business of the QOE.

ARTICLE IV.

TERM

This Agreement shall be in effect upon the date of the last party to sign and will continue for a period of five (5) years. GSC reserves the option to extend this Agreement for five (5) additional one year periods, not to exceed a total contract term of ten (10) years.

ARTICLE V.

GOODS AND SERVICES

Contractor will provide the Goods and Services more particularly described in Exhibit F (Clarification Documents). Contractor will furnish the Goods and Services to GSC and/or QOEs under the terms and conditions of this Agreement.

ARTICLE VI.

SOFTWARE LICENSE

Contractor warrants that the manufacturer of the software used to maintain and operate the Equipment shall grant to the QOEs a nonexclusive, nontransferable license for the life of the Equipment to use the software, including related documentation, solely to maintain and operate the Equipment, provided the QOEs: (i) to the extent permitted by the Texas Public Information Act, does not allow any aspect of the software to be disclosed to a third party without the software manufacturer's written consent and makes reasonable efforts to ensure that its employees are aware of this obligation; (ii) uses the software solely for QOE internal business; (iii) does not modify, reproduce or copy any part of the software without the software manufacturer's written consent and does not attempt to develop any source code from the software; and (iv) returns to software manufacturer or erases or destroys any software on any media being recycled or discarded, due to replacement or termination of license. If applicable, the QOEs may only transfer the right to use the software to any end user who subsequently acquires the right to operate the Equipment.

QOEs acknowledge that the software and features provided by Contractor constitute either the copyrighted property or the proprietary trade secret information of the software manufacturer, or both. The QOE shall use

reasonable precautions to prevent unauthorized use of the software and features or disclosure of the software manufacturer's proprietary trade secret information. The QOEs acknowledge that the software manufacturer retains title to the software (excluding media on which recorded) and all intellectual property rights, with the exception of the license conveyed herein and no title to software or intellectual property rights are transferred to the QOEs.

ARTICLE VII.

WARRANTIES

A. From Contractor:

Limited Warranties shall apply to all ordered Goods and Services, as stated in the applicable Clarification Document(s) and shall be for the period stated in the Clarification Documents.

B. From QOEs:

1. In ordering Goods and Services under this Agreement, the QOEs assure GSC and Contractor that its and its Users' use of the Goods and Services will at all times comply with applicable laws, regulations and written and electronic instructions for use. Contractor reserves the right to terminate Goods and Services for cause in the event QOEs or the related Users fail to comply with applicable laws, regulations and instructions for use.

2. Goods and Services ordered under this Agreement shall only be used for official business of the QOE. Each QOE is responsible for the lawful use of Goods and Services obtained under this Agreement.

ARTICLE VIII.

LIMITATION OF LIABILITY

Applicable limitations of liability which may apply to specific Goods and Services are as set out in Exhibit F (Clarification Document). **IN NO EVENT SHALL SWBT BE LIABLE FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.**

ARTICLE IX.

REMEDIES

A. Termination for Cause. If any party at any time commits any material breach of any covenant, warranty, or provision of this Agreement or a Purchase Order arising hereunder and, having been given the opportunity to correct, fails to cure any such breach within thirty (30) days after written notice thereof, the other party may, at its option, and in addition to any other remedies available to it at law or equity, cancel and terminate the Purchase Order by notice in writing to the breaching party. Only GSC and the Contractor may terminate the Agreement for cause, effective thirty (30) business days after receipt of written notice. Where the breach is related to nonpayment by a QOE, Contractor will use reasonable efforts to advise GSC and the Contractor will cooperate with GSC and the QOE in an attempt to resolve any bona fide dispute that is the basis of the non-payment.

B. Termination for Convenience. QOEs may terminate a Purchase Order arising under this Agreement upon seven (7) business days written notice to Contractor. QOEs shall remain responsible and liable for payment for Goods and Services received prior to the effective date of termination. Only GSC and Contractor may terminate the Agreement for convenience, effective thirty (30)

business days after receipt of written notice. The covenant of payment for Goods and Services received survives termination of this Agreement and/or a related purchase order.

ARTICLE X.

NOTICES

Except as otherwise specifically provided in Exhibit F (Clarification Document) for telephonic notices, all notices required to be given under this Agreement shall be in writing and either mailed by certified or registered mail, postage prepaid return receipt requested, sent by express courier, facsimile transmission or electronic means, with hard copy receipt, or hand delivered and addressed to each party at the address set forth on the front of this Agreement or, if the notice relates to a specific Purchase Order, the address set forth in such Purchase Order, or, in any case, such other address a party designates in writing.

ARTICLE XI.

HISTORICALLY UNDERUTILIZED BUSINESS PARTICIPATION

Pursuant to Chapter 2161 of the Texas Government Code, the state agency QOEs are required to make a good faith effort to assist Historically Underutilized Businesses ("HUBs") in receiving a portion of the total value of all contract awards issued by the QOEs. Therefore, Contractor shall be required to make a good faith effort to assist HUBs in receiving a portion of the total value of subcontracts that Contractor awards under this Agreement. To make such a good faith effort, Contractor at a minimum must as a condition of award and before execution of this sales agreement submit Good Faith Effort Program forms and documentation and report subcontracting participation after contract execution. Failure to submit HUB subcontracting data will result in revocation of

any contract awarded because of noncompliance. Existing contracts that the Contractor may have for commodities or services will not preclude efforts on the Contractor's part to include HUBs in sub-contracting opportunities. Should any subcontracting occur, the Contractor shall be held responsible for any work performed by the subcontractor and that the subcontractor comply with all parts of this specification including all insurance requirements. The HUB subcontracting participation forms are a part of Exhibit G (HUB Participation Information).

ARTICLE XII.

PAYMENT

- A.** Payment for Goods and Services are due by the thirtieth (30th) day after:
- 1) the date of completed work under the related purchase order;
 - 2) the date of acceptance of ordered goods under the related purchase order; or
 - 3) the date of receipt of a correct and complete invoice, whichever is later.
- B.** Penalties for late payment are as set out in Chapter 2251, Texas Government Code.
- C.** The QOEs are not subject to the assessment or payment of federal, state and local sales and excise taxes.
- D.** Invoices must contain, at a minimum: this Contract number; the number of the Purchase Order to which the invoice relates; description of the Goods and Services provided pursuant to the Purchase Order; V.I.D, other vendor identification information as specified in the Purchase Order.

ARTICLE XIII.

MISCELLANEOUS

- A. Vendor Performance.** QOEs shall report to GSC any instances of vendor non-performance under this Agreement, pursuant to 1 TAC Chapter 113, Subchapter F.
- B. Access.** GSC and QOEs, as appropriate, will provide SWBT reasonable access to all premises at reasonable hours for the purpose of installing, inspecting, testing, rearranging, maintaining, repairing or removing the Services. SWBT will use reasonable efforts to avoid disrupting normal business activities to the extent possible.
- C. Entireties.** This Agreement supersedes any and all prior agreements, representations, or promises made by the parties that differ in any way from the terms and conditions stated herein.
- D. Strict Performance.** Failure at any time to require strict performance by either party of any Agreement provisions shall not waive or diminish GSC's right thereafter to demand strict compliance with any other Agreement provision.
- E. Amendments, Modifications or Changes.** No amendments, modifications or changes to this Agreement shall be made except by a writing signed by the Contractor and GSC.
- F. Assignment.** Neither party shall assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the other, except for assignments to affiliates and successors, for which no consent is required. Said consent shall not be unreasonably withheld.
- G. Force Majeure.** Neither Contractor nor a QOE shall be liable for any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes,

acts of civil or military authority, wars, acts of God, acts or omissions of carriers or suppliers, which are not acting as affiliates under this Agreement, acts of regulatory or governmental agencies, or other causes beyond such party's reasonable control, whether or not similar to the foregoing, except that a QOE's obligation to pay for Goods and Services received shall not be excused.

H. Legislative Appropriation. This Agreement is subject to legislative appropriation and, if no funds are appropriated for payment of this Agreement, this Agreement may be canceled either in whole or part, without penalty to the GSC with thirty (30) days written notice to Contractor, provided GSC and/or QOE's shall pay for all Goods and Services delivered before the effective date of cancellation.

I. Severability. If any provision(s) of this Agreement shall be invalid or unenforceable, such provisions shall not invalidate or render unenforceable the entire Agreement. The entire Agreement shall be construed as if the invalid or unenforceable provision(s) were not included in the Agreement.

J. Subcontracting. During the term of this Agreement, contractor shall not subcontract any additional services to be provided pursuant to this Agreement without obtaining approval from GSC, except for such subcontracting specifically contemplated by this Agreement. In no event will any subcontracting by Contractor relieve Contractor from any of the obligations to perform in accordance with this Agreement.

K. Governing Law. This Agreement will be construed and all disputes hereunder will be settled under the laws of the State of Texas.

L. Sovereign Immunity. Nothing herein shall constitute waiver by the State of Texas of its sovereign immunity. Nothing herein shall be construed to extend sovereign immunity status to other QOE's, which do not otherwise enjoy that

privilege as a matter of law. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by GSC and state agency QOE's and Contractor to attempt to resolve all disputes arising under this Agreement, and each Purchase Order issued pursuant hereto.

M. Compliance with Laws. This Agreement shall be subject to all applicable laws, court orders, rules and regulations.

N. Binding Effect. The execution of this Agreement by the authorized representatives of the parties shall have binding effect on the entity, its employees, agents, successors and assigns.

O. Open Records Act; Proprietary Information. The parties acknowledge that this Agreement and all information, documentation, and other material pertaining to this Agreement may be subject to public disclosure under the Texas Public Information Act, Chapter 552.001, et seq., Tx. Gov. Code. GSC shall be governed by the Act and the opinions of the Office of the Attorney General with regard to the administration of this Agreement and compliance with the Act, and will provide SWBT with notice of any request for such information.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed to be effective on the date of the last party to sign.

GENERAL SERVICES COMMISSION

SOUTHWESTERN
TELEPHONE COMPANY

BELL

BY: Cal Muller

BY: Charles H. Trammell
Charles H. Trammell

TITLE: Acting Executive Director

TITLE: Regional Vice President

DATE: 8/31/1999

DATE: 8-24-1999

APPROVED AS TO FORM:

8/25/99
Office of General Counsel

8/25/99
Fiscal Management

EXHIBIT F

CLARIFICATION DOCUMENT TO TEXAN 2000 – SWB - EPI

Ⓐ Southwestern Bell Telephone

EQUIPMENT & SALES

1. This is Exhibit F, Clarification Document to the TEXAN 2000 – SWB – EPI Agreement ("Agreement") between Southwestern Bell Telephone Company (SWBT) and General Services Commission of the State of Texas (GSC). The term of this Agreement is from the Term Commencement Date, the date of the last party to sign, and has a primary term of three (3) years, with up to five (5) one (1) year extension options in favor of the State, not to exceed a total term of eight (8) years.

2. DESCRIPTION OF SERVICE TO BE PROVISIONED, INSTALLED AND MAINTAINED: **Telecommunications Equipment**

3. SWBT will sell Equipment for delivery to locations designated by GSC or the QOE within the state of Texas at the prices reflected in the attached pricing summary.

4. **EQUIPMENT AND SERVICES:** This Agreement covers the items of personal property and/or the Services described below and on any Purchase Order(s) executed between the parties, as well as any additions to and accessories and replacements for, the listed Equipment ("Equipment/Services"). Customer will be charged for any additions, deletions or changes ("Changes") in the Equipment/Services. If Customer desires a Change, Customer will notify SWBT by a Revised Purchase Order specifying changes. If SWBT does not receive the executed Revised Purchase Order, no changes will be made to the Customer order. Any increase or decrease in the price occasioned by a Change will be added to/subtracted from the amount of Customer's final Invoice. Any Change involving the deletion of Equipment that was ordered by SWBT from a manufacturer on Customer account, previously shipped, and/or delivered to Customer will result in a restocking charge to Customer of not less than 20% of the selling price. After the date of the complete execution of this Clarification Document (i.e. last required signature), any changes requested by Customer after this date will be processed as a Change.

5. **OWNERSHIP OF EQUIPMENT:** Until Equipment is paid in full, Customer will not move the Equipment from the installed location and will permit SWBT to inspect the Equipment at any reasonable time and will keep the Equipment in good repair, condition and working order at Customer's expense. Until Equipment is paid for in full, the Equipment will also at all times remain the personal property of SWBT and will not become a fixture even if it is affixed, attached, or installed in any real estate or improvements.

H:hill/tele/exhibit F swb-epi texan2000final.doc

6. CERTAIN OTHER AGREEMENTS: Customer understands and agrees with SWBT as follows:

(a) Installation: SWBT is not responsible for Installation of the Equipment. GSC or QOE's designated Installation contractor shall be responsible for installation, warranty service and maintenance of the Equipment. Customer will arrange to have the Equipment delivered within 90 days from the date of this Agreement, and will provide a suitable and safe environment ready to accept the Equipment. SWBT has not included in SWBT's charges any expense for dealing with, removing or disposing of any potentially hazardous substance, such as asbestos. Customer will be responsible for any additional costs incurred to deal with such matters. Customer will obtain, at Customer expense, any necessary licenses, permits and consents (including any landlord or mortgagee's consents) in connection with the delivery of the Equipment.

(b) Risk of Loss: Customer bears the entire risk of loss, theft, destruction of or damage to the Equipment from any cause whatsoever. In the event of any loss or damage to the Equipment prior to SWBT being paid in full, Customer must either place the equipment in good condition and repair, replace the lost or damaged Equipment with like equipment in good condition and repair with clear title owned by SWBT or pay to SWBT an amount equal to all unpaid payments under this Agreement as of the time of such payment, in which case the Equipment will become the property of Customer and/or Customer insurer, as is and without any further warranty.

(c) No Cancellation or Assignment: Until paid in full, Customer may neither cancel this Agreement nor transfer nor lend any of the equipment nor permit it to be used by anyone other than Customer or Customer's employees. Customer may neither assign Customer's rights or duties nor encumber the Equipment without SWBT's written consent, which SWBT may withhold in SWBT's sole discretion. Upon prior notice to Customer, SWBT may assign or subcontract all or part of SWBT's rights and obligations under this Agreement, in which event Customer will look only to SWBT's assignee and not to SWBT for any further performance

7. REPRESENTATIONS: Customer represents it will not export the Equipment outside the U.S.

8. LIMITED WARRANTIES AND LIMITATION OF LIABILITIES: SWBT warrants that it has good title to the Equipment, free of any claims, liens, encumbrances or security interests of any other party, and that the Equipment conforms to the manufacturer's published specifications, and is free from electrical or mechanical defects in materials and workmanship under normal installation, use and service. After Equipment is installed, upon notice from Purchaser, SWBT will promptly replace Equipment failing to conform to or

perform according to the manufacturer's with, at SWBT's option, new or used replacement parts or fully refund the purchase price. These are Purchaser's exclusive remedies for breach of warranty. However, SWBT is not the manufacturer of the Equipment and therefore, **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES SHALL BE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN LIMITED WARRANTY. IN NO EVENT SHALL SWBT BE LIABLE FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES OR OTHERWISE, INCLUDING DAMAGE TO PROPERTY AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURY. IN NO EVENT WILL SWBT'S LIABILITY FOR DAMAGES CAUSED BY OR ARISING OUT OF ITS FAILURE TO SUPPLY MATERIAL OR PERFORM SERVICES IN A PROPER AND TIMELY MANNER EXCEED THE AMOUNT PAID BY CUSTOMER TO SWBT FOR SUCH MATERIAL AND SERVICES.**

Customer understands that SWBT's price reflects this limitation of liability.

This warranty does not include the following services:

- a. Repair of damage due to Customer's failure to provide adequate electrical power or environmental conditions.
- b. Repair of damages caused by misuse or neglect, improper installation, maintenance or service.
- c. Repair of damages caused by Customer's existing wiring or damage to the existing wiring.
- d. Repair of damage caused by accident and/or disaster, including but not limited to fire, flood, wind, lightning or water.
- e. Repair of damage caused by the attachment of mechanical, electrical or electronic equipment or devices to the system that are not supplied by SWBT.
- f. Repairs which are impractical for SWBT to render because of alterations in or attachments to the system.

Upon Customer's request and at SWBT's option, SWBT will provide any of the foregoing services at its then prevailing standard service rate therefor.

The Warranty provided under this Agreement does not insure uninterrupted operation of the Customer's telecommunications system. Except for the limited warranties set forth herein, the software is provided "as is" without warranty of any kind, either express or implied. SWBT does not warrant that the software, including security software operate without error or will prevent third party hacking or access to Customer's networks.

Customer will be subrogated to any claims or rights SWBT may have against the manufacturer of the equipment for breach of any warranties or representations, and, upon Purchaser's written request, SWBT will take all reasonable actions to enforce on Purchaser's behalf any such express or implied warranties or representations applicable to the Equipment, provided: (1) Customer is not in default of its obligations under this agreement; and (2) the Equipment has not been damaged as a result of misuse, abuse, neglect, accident, improper electrical voltages or currents, or repair, alteration or maintenance by any person or party other than an authorized service facility, or any use violative of the use instructions furnished with the Products by the SWBT or the manufacturer. If the Equipment has not yet been paid for in full, Customer also agrees to first apply all proceeds of any such warranty recoveries from the manufacturer to repair the Equipment.

Notwithstanding the foregoing limitations, SWBT shall:

- A. Indemnify Customer against any claim or threat of claim brought by any third party alleging the Products infringe such party's patents, trademarks or copyright ("the Intellectual Property"), providing that Purchaser: (a) shall have followed SWBT's reasonable instructions for use of the Intellectual Property associated with the Products; (b) shall not have modified the Products; (c) notifies SWBT promptly and in writing of any such claims; and (d) cooperates with and permits SWBT to control the defense, settlement or other handling of such claim or threatened claim. In the event one or more of the Products shall be found not to conform to the Intellectual Property warranty, Purchaser's sole remedy against SWBT shall be, at SWBT's option, for SWBT to: (a) defend Customer against such infringement claim; (b) to substitute other functionally equivalent products for the infringing units or modify the infringing units so that they no longer infringe; or (c) to accept return of the infringing units, providing Customer with credit for the depreciated value of any returned units.
- B. SWBT shall also indemnify Customer against any claim or threat of claim brought by a third party which arises out of any claim or suit for direct damages or relief on account of injury to or death of any person or damage to tangible personal or real property caused solely by SWBT's negligence or willful misconduct in the course of SWBT's performance under this contract

C. Year 2000 Performance Warranty

For purposes of the following warranty, the Contractor, Southwestern Bell Telephone, is not the manufacturer of the equipment and makes no separate express or implied warranties concerning Year 2000 issues. Contractor assigns to Department all manufacturer's warranties. Contractor shall not be liable for any indirect or consequential damages, including any lost profits, loss of business income or revenues or damages for personal injury or property damage related or alleged to have been caused by Year 2000 issues. Contractor will work diligently and expeditiously to resolve any issues caused by Year 2000

Performance Issues, up to and including replacement of any hardware or software that is non-compliant thereby causing the products to not perform as designed for this Contract.

For purposes of this warranty, the following definitions shall apply:

1. "Accurately" shall be defined to include:
 - a) calculations correctly performed using four-digit year processing;
 - b) functionality on-line, batch, including but not limited to, entry, Inquiry, maintenance and updates support four-digit year processing;
 - c) Interfaces and reports must support four-digit year processing;
 - d) successful translation into year 2000 with valid date (e.g., CC/YY/MM/DD) without human intervention. Additional representations for weeks, hour, minute and second, if required, complies with the international standard ISO 8601:1988, "Date Elements and Interchange Formats - Information Exchange Representation of Dates and Time." When ordinal dates are used, the ISO standard format CCYYDDD is used;
 - e) processing with four digit year after transition to any date beyond the year 2000 without human intervention;
 - f) correct results in forward and backward date calculations spanning century boundaries;
 - g) correct leap year calculations;
 - h) correct forward and backward date calculations spanning century boundaries, including conversion of previous years stored, recorded or entered as two digits.
2. "Date integrity" shall mean all manipulations of time-related data (dates, duration, Days of week, etc.) will produce desired results for all valid date values within the application domain.
3. "Explicit century" shall mean data elements in interface and data storage permit specifying century to eliminate date ambiguity.
4. "General integrity" shall mean no value for current date will cause interruptions in desired operation, especially from the 20th to the 21st centuries.
5. "Implicit century" shall mean for any data element without century, the correct century is unambiguous for all manipulations involving that element.
6. "Product" or "products" shall be defined to include any supplied or supported hardware, software, firmware and/or micro code.

7. "Valid date" shall be defined as a date containing a four digit year, a two digit month and a two digit day, or the ISO 8601:1988, "Data Elements - Information Exchange Representation of Dates and Times." When ordinal dates are used, IO format CCYYDDD is used.

The Manufacturer(s) warrant that products required by this Contract shall be able to accurately process valid date data when used properly. Products under this Contract possess general integrity, date integrity, explicit and implicit century capabilities. Where the Contract requires that specific products must perform as a system, then the warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the State for breach of this warranty shall include repair or replacement of any product whose non-compliance is discovered by the Contractor or the State within 180 days from discovery.

Equipment Purchase	Payment Discount Off Manufacturer's List Price (All Hardware)	Payment Discount Off Manufacturer's List Price (All Software)
Equipment Manufacturer		
Adtran		
CSU/DSU Products	30%	30%
T1/FT1 Products	30%	30%
Accessories	10%	10%
Alcatel		
3x50 Mux Products	35%	35%
Check Point		
Non-Education	N/A	5%
Education	N/A	7%
Fujitsu		
Sonet Packages	25%	25%
Lucent		
Sonet Packages	25%	25%
Newbridge Networks		
Access Switch Products	35%	35%
ATM Switch Products	35%	35%
Nortel Networks (Bay Networks)		
Switch Products (Non-Education)	33%	33%
Switch Products (Education)	35%	35%
Hub Products (Non-Education)	33%	33%
Hub Products (Education)	35%	35%
Multi-Service Switch Products (Non-Education)	33%	33%
Multi-Service Switch Products (Education)	35%	35%
PictureTel		
Group & Compact Systems, MCUs & Streaming Products	21%	N/A

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Imux's Monitors, Carts, & Peripheral Products	1.25%	N/A
Desktop & LiveLan Products	3.75%	N/A
Software Products	N/A	23%
Cable Products	0%	N/A
PolyCom		
ViewStation Products	18%	N/A
ViewStation Accessories	1.25%	N/A
ShowStation IP Products	18%	N/A
ShowStation IP Accessories	18%	N/A
Accessories	18%	N/A
VTEL		
High-End Room Products	28%	N/A
Low-End Room Products	22%	N/A
Low-End Personal Products	10%	N/A
High-End Personal Products	14%	N/A
High-End WorkGroup Products	14%	N/A
Low-End WorkGroup Products	25%	N/A
Integrator System Products	22%	N/A
Software Products	N/A	20%
Accessories	1%	N/A

**Amendment No. 1
To
GSC Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the General Services Commission
("GSC")
And
Southwestern Bell Telephone Co.**

This Amendment No. 1 is by and between GSC and Southwestern Bell Telephone Co. (SWB) and is effective as of the date of the last signature below (Amendment Effective Date).

WHEREAS the State of Texas, acting by and through the General Services Commission and SWB entered into GSC Contract No. TEXAN 2000 – SWB – EPI dated August 31, 1999 (the "Agreement"); and

WHEREAS, as part of the Agreement SWB was to provide certain equipment sales to GSC , other state agencies and QOEs, as defined therein; and

WHEREAS, GSC and SWB now wish to enter into this Amendment No. 1 that will provide Installation services to GSC, other state agencies and QOEs, as defined.

NOW THEREFORE, GSC and SWB agree as follows.

1. Attachment A to this Amendment No. 1 is approved as the terms and conditions of the Installation services which may be ordered from SWB by GSC, other state agencies and QOEs, as defined in the Agreement. Attachment A to this Amendment No. 1 is to be added to the GSC Contract No. TEXAN 2000-SWB-EPI as if it originally appeared therein.
2. The terms and the conditions of the Agreement shall apply except as expressly amended in Section 1 above of this Amendment No. 1. In the event of any conflict between the Agreement and this Amendment No. 1, the order of precedence for governance is this Amendment No. 1 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, we hereby execute this Amendment No. 1 to be effective upon the date of the last party to sign.

State of Texas, acting by and

Southwestern Bell Telephone Company

through the General Services Commission

By: [Signature]

By: [Signature]

Name: Dorothy Executive Smith

Name: Charles H. Trammell

Date: 2-17-00

Date: 2/15/2000

Approved as to form:

[Signature] 2/14/00
Office of General Counsel
[Signature] 2/14/00
Fiscal Management

TOTAL P.01

09/19/00 TUE 14:10 [TX/RX NO 7512]

**Equipment Purchase
and/or Installation**

4.8.7.3 Equipment Installation Required Pricing Section

Equipment Installation Services	Simple System or Component: install (e.g., LAN node router, CSU/DSU, processor card, etc. (Approx. 2 hrs. Onsite))	Intermediate System or Component: install (e.g., LAN network router, CSU/DSU card, etc. (Approx. 3 hrs. Onsite))	Complex System or Multi-Components: install (e.g., core or distribution router, memory upgrades, etc. (Approx. 3 hrs. Onsite))
Austin, Dallas, Houston, or San Antonio			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 375.00	\$ 375.00	\$ 375.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 85.00	\$ 85.00	\$ 85.00
Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote Price
Abilene, Amarillo, Beaumont, College Station, Corpus Christi, El Paso, Lubbock, McAllen, Midland, Tyler, Waco, and Wichita Falls			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 425.00	\$ 425.00	\$ 425.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 150.00	\$ 150.00	\$ 150.00
Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote Price

Revised (02/00)

SOUTHWESTERN BELL EQUIPMENT INSTALLATION

Statement of Work

Installation Services Include:

- Staging and configuration of all equipment
- Connection of equipment to power outlets and network interfaces (LAN and WAN interface).
- Verify proper grounding of equipment rack(s) per manufacturer specifications.
- Power-up test of all equipment
- Conduct local loopback tests with equipment as required.
- Verify network connectivity (e.g., ping/extended ping test)
- Provide acceptance document
- Installation services conducted during normal business hours, Monday through Friday, 8am – 5pm.

Services Not Included:

- Network circuit testing
- Installation documentation (e.g., network diagrams, configurations, as-builts, etc.)
- Mounting and Installation of backboards, racks and network extensions (Demarc, LAN cabling, etc.)
- End-to-End application testing and certification.
- Project Management/Coordination

Customer Responsibilities:

- Site Survey should be completed by customer or vendor of choice, and provided prior to installations.
- Site Preparation and Circuit installation completed prior to scheduling of installation.
- Circuit Demarc must be within 15 feet within the same workspace where equipment is to be installed.
- Electrical outlets must be within 5 feet within the same workspace where equipment is to be installed and meet the respective vendor specifications/requirements.
- Insure proper grounding in compliance with industry standards is located within 15 feet of workspace where equipment is to be installed. Proper grounding of existing racks will be the customer's responsibility.
- Responsible for all equipment configurations (initial and post-installation).

Proprietary and Confidential: not for disclosure without written consent from Southwestern Bell Network Integration.

**Amendment No. 2
To
GSC Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the General Services Commission
("GSC")
And
Southwestern Bell Telephone Co.**

This Amendment No. 2 is by and between GSC and Southwestern Bell Telephone Co. (SWB) and is effective as of the date of the last signature below (Amendment Effective Date).

WHEREAS the State of Texas, acting by and through the General Services Commission and SWB entered into GSC Contract No. TEXAN 2000 -- SWB -- EPI dated August 31, 1999 (the "Agreement"); and

WHEREAS, the Agreement was amended by Amendment 1, dated February 14, 2000; and

WHEREAS, as part of the Agreement SWB is to provide certain equipment sales to GSC , other state agencies and QOEs, as defined therein; and

WHEREAS, as part of Amendment 1, SWB is to provide certain installation services; and

WHEREAS, GSC and SWB now wish to enter into this Amendment No. 2 to provide additional equipment to be provided by SWB, to clarify the term of the Agreement and to Amend Exhibit F to the Agreement to cover both equipment sales and installation services to GSC, other state agencies and QOEs, as defined.

NOW THEREFORE, GSC and SWB agree as follows.

1. That Article IV of the Agreement shall be and hereby is amended to read in its entirety as follows:

This Agreement shall be in effect upon the date of the last party to sign (August 31, 1999) and will continue for a period of three (3) years. GSC reserves the option to extend this Agreement for up to five (5) additional one year periods, not to exceed a total contract term of eight (8) years.

2. Attachment A to this Amendment No. 2 is approved as the terms and conditions of the equipment and installation services which may be ordered from SWB by GSC, other state agencies and QOEs, as defined in the Agreement. Attachment

A to this Amendment No. 2 is to be added to the GSC Contract No. TEXAN 2000-SWB-EPI as Amended Exhibit F as if it originally appeared therein.

- 2.3. The terms and the conditions of the Agreement shall apply except as expressly amended in Section 1 above of this Amendment No. 2. In the event of any conflict between the Agreement and this Amendment No. 2, the order of precedence for governance is this Amendment No. 2 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, we hereby execute this Amendment No. 2 to be effective upon the date of the last party to sign.

State of Texas, acting by and

Southwestern Bell Telephone Company

through the General Services Commission

By: Jim Muse

By: Charles H. Trammell

Name: Jim Muse

Name: Charles H. Trammell

Date: 6-29-00

Date: 6/22/2000

Approved as to form:

Charles H. Trammell
Office of General Counsel

William J. 6/22/00
Fiscal Management

5/29/00
Telecommunications Services Director

PAGE 2

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**AMENDED AND RESTATED EXHIBIT F
CLARIFICATION DOCUMENT PER SECOND AMENDMENT TO
TEXAN 2000 – SWB – EPI**

 **Southwestern Bell Telephone**

EQUIPMENT & SALES

1. This is Exhibit F, Clarification Document to the TEXAN 2000 – SWB – EPI Agreement ("Agreement") between Southwestern Bell Telephone Company (SWBT) and General Services Commission of the State of Texas (GSC). The term of this Agreement is from the Term Commencement Date, August 31, 1999, and has a primary term of three (3) years, with up to five (5) one (1) year extension options in favor of the State, not to exceed a total term of eight (8) years.

2. **DESCRIPTION OF SERVICE TO BE PROVISIONED, INSTALLED AND MAINTAINED: Telecommunications Equipment and Installation**

3. SWBT will sell Equipment for delivery to locations designated by GSC or the QOE within the state of Texas at the prices reflected in the attached pricing summary.

4. **EQUIPMENT AND SERVICES:** This Agreement covers the items of personal property and/or the Services described below and on any Purchase Order(s) executed between the parties, as well as any additions to and accessories and replacements for, the listed Equipment ("Equipment/Services"). Customer will be charged for any additions, deletions or changes ("Changes") in the Equipment/Services. If Customer desires a Change, Customer will notify SWBT by a Revised Purchase Order specifying changes. If SWBT does not receive the executed Revised Purchase Order, no changes will be made to the Customer order. Any increase or decrease in the price occasioned by a Change will be added to/subtracted from the amount of Customer's final invoice. Any Change involving the deletion of Equipment that was ordered by SWBT from a manufacturer on Customer account, previously shipped, and/or delivered to Customer will result in a restocking charge to Customer of not less than 20% of the selling price. After the date of the complete execution of this Clarification Document (i.e. last required signature), any changes requested by Customer after this date will be processed as a Change.

5. **OWNERSHIP OF EQUIPMENT:** Until Equipment is paid in full, Customer will not move the Equipment from the installed location and will permit SWBT to inspect the Equipment at any reasonable time and will keep the Equipment in good repair, condition and working order at Customer's expense. Until Equipment is paid for in full, the Equipment will also at all times remain the personal

property of SWBT and will not become a fixture even if it is affixed, attached, or installed in any real estate or improvements.

6. CERTAIN OTHER AGREEMENTS: Customer understands and agrees with SWBT as follows:

(a) **Installation:** SWBT is not responsible for Installation of the Equipment. GSC or QOE's designated Installation contractor shall be responsible for installation, warranty service and maintenance of the Equipment. Customer will arrange to have the Equipment delivered within 90 days from the date of this Agreement, and will provide a suitable and safe environment ready to accept the Equipment. SWBT has not included in SWBT's charges any expense for dealing with, removing or disposing of any potentially hazardous substance, such as asbestos. Customer will be responsible for any additional costs incurred to deal with such matters. Customer will obtain, at Customer expense, any necessary licenses, permits and consents (including any landlord or mortgagee's consents) in connection with the delivery of the Equipment.

(b) **Risk of Loss:** Customer bears the entire risk of loss, theft, destruction of or damage to the Equipment from any cause whatsoever. In the event of any loss or damage to the Equipment prior to SWBT being paid in full, Customer must either place the equipment in good condition and repair, replace the lost or damaged Equipment with like equipment in good condition and repair with clear title owned by SWBT or pay to SWBT an amount equal to all unpaid payments under this Agreement as of the time of such payment, in which case the Equipment will become the property of Customer and/or Customer insurer, as is and without any further warranty.

(c) **No Cancellation or Assignment:** Until paid in full, Customer may neither cancel this Agreement nor transfer nor lend any of the equipment nor permit it to be used by anyone other than Customer or Customer's employees. Customer may neither assign Customer's rights or duties nor encumber the Equipment without SWBT's written consent, which SWBT may withhold in SWBT's sole discretion. Subject to Customer's prior consent, SWBT may assign or subcontract all or part of SWBT's rights and obligations under this Agreement, provided that, without Customer's consent but upon prior notice to Customer, SWBT may assign or subcontract all or part of its rights and obligations to an affiliate under common control with SWBT. In the event of such assignment Customer will look only to the assignee for any further performance.

7. REPRESENTATIONS: Customer represents it will not export the Equipment outside the U.S.

8. LIMITED WARRANTIES AND LIMITATION OF LIABILITIES: SWBT warrants that it has good title to the Equipment, free of any claims, liens, encumbrances or security interests of any other party, and that the Equipment

conforms to the manufacturer's published specifications, and is free from electrical or mechanical defects in materials and workmanship under normal installation, use and service. After Equipment is installed, upon notice from Purchaser, SWBT will promptly replace Equipment failing to conform to or perform according to the manufacturer's with, at SWBT's option, new or used replacement parts or fully refund the purchase price. These are Purchaser's exclusive remedies for breach of warranty. However, SWBT is not the manufacturer of the Equipment and therefore, **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES SHALL BE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN LIMITED WARRANTY. IN NO EVENT SHALL SWBT BE LIABLE FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES OR OTHERWISE, INCLUDING DAMAGE TO PROPERTY AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURY. IN NO EVENT WILL SWBT'S LIABILITY FOR DAMAGES CAUSED BY OR ARISING OUT OF ITS FAILURE TO SUPPLY MATERIAL OR PERFORM SERVICES IN A PROPER AND TIMELY MANNER EXCEED THE AMOUNT PAID BY CUSTOMER TO SWBT FOR SUCH MATERIAL AND SERVICES.**

Customer understands that SWBT's price reflects this limitation of liability.

This warranty does not include the following services:

- a. Repair of damage due to Customer's failure to provide adequate electrical power or environmental conditions.
- b. Repair of damages caused by misuse or neglect, improper installation, maintenance or service.
- c. Repair of damages caused by Customer's existing wiring or damage to the existing wiring.
- d. Repair of damage caused by accident and/or disaster, including but not limited to fire, flood, wind, lightning or water.
- e. Repair of damage caused by the attachment of mechanical, electrical or electronic equipment or devices to the system that are not supplied by SWBT.
- f. Repairs which are impractical for SWBT to render because of alterations in or attachments to the system.

Upon Customer's request and at SWBT's option, SWBT will provide any of the foregoing services at its then prevailing standard service rate therefor.

The Warranty provided under this Agreement does not insure uninterrupted operation of the Customer's telecommunications system. Except for the limited warranties set forth herein, the software is provided "as is" without warranty of

any kind, either express or implied. SWBT does not warrant that the software, including security software operate without error or will prevent third party hacking or access to Customer's networks.

Customer will be subrogated to any claims or rights SWBT may have against the manufacturer of the equipment for breach of any warranties or representations, and, upon Purchaser's written request, SWBT will take all reasonable actions to enforce on Purchaser's behalf any such express or Implied warranties or representations applicable to the Equipment, provided: (1) Customer is not in default of its obligations under this agreement; and (2) the Equipment has not been damaged as a result of misuse, abuse, neglect, accident, improper electrical voltages or currents, or repair, alteration or maintenance by any person or party other than an authorized service facility, or any use violative of the use instructions furnished with the Products by the SWBT or the manufacturer. If the Equipment has not yet been paid for in full, Customer also agrees to first apply all proceeds of any such warranty recoveries from the manufacturer to repair the Equipment.

Notwithstanding the foregoing limitations, SWBT shall:

- A. Indemnify Customer against any claim or threat of claim brought by any third party alleging the Products infringe such party's patents, trademarks or copyright ("the Intellectual Property"), providing that Purchaser: (a) shall have followed SWBT's reasonable instructions for use of the Intellectual Property associated with the Products; (b) shall not have modified the Products; (c) notifies SWBT promptly and in writing of any such claims; and (d) cooperates with and permits SWBT to control the defense, settlement or other handling of such claim or threatened claim. In the event one or more of the Products shall be found not to conform to the Intellectual Property warranty, Purchaser's sole remedy against SWBT shall be, at SWBT's option, for SWBT to: (a) defend Customer against such infringement claim; (b) to substitute other functionally equivalent products for the infringing units or modify the infringing units so that they no longer infringe; or (c) to accept return of the infringing units, providing Customer with credit for the depreciated value of any returned units.
- B. SWBT shall also indemnify Customer against any claim or threat of claim brought by a third party which arises out of any claim or suit for direct damages or relief on account of injury to or death of any person or damage to tangible personal or real property caused solely by SWBT's negligence or willful misconduct in the course of SWBT's performance under this contract

C. Year 2000 Performance Warranty

For purposes of the following warranty, the Contractor, Southwestern Bell Telephone, is not the manufacturer of the equipment and makes no separate express or implied warranties concerning Year 2000 issues. Contractor assigns to Department all manufacturer's warranties. Contractor shall not be liable for

any indirect or consequential damages, including any lost profits, loss of business income or revenues or damages for personal injury or property damage related or alleged to have been caused by Year 2000 issues. Contractor will work diligently and expeditiously to resolve any issues caused by Year 2000 Performance Issues, up to and including replacement of any hardware or software that is non-compliant thereby causing the products to not perform as designed for this Contract.

For purposes of this warranty, the following definitions shall apply:

1. "Accurately" shall be defined to include:
 - a) calculations correctly performed using four-digit year processing;
 - b) functionality on-line, batch, including but not limited to, entry, inquiry, maintenance and updates support four-digit year processing;
 - c) Interfaces and reports must support four-digit year processing;
 - d) successful translation into year 2000 with valid date (e.g., CC/YY/MM/DD) without human intervention. Additional representations for weeks, hour, minute and second, if required, complies with the international standard ISO 8601:1988, "Date Elements and Interchange Formats - Information Exchange Representation of Dates and Time." When ordinal dates are used, the ISO standard format CCYYDDD is used;
 - e) processing with four digit year after transition to any date beyond the year 2000 without human intervention;
 - f) correct results in forward and backward date calculations spanning century boundaries;
 - g) correct leap year calculations;
 - h) correct forward and backward date calculations spanning century boundaries, including conversion of previous years stored, recorded or entered as two digits.
2. "Date integrity" shall mean all manipulations of time-related data (dates, duration, Days of week, etc.) will produce desired results for all valid date values within the application domain.
3. "Explicit century" shall mean data elements in interface and data storage permit specifying century to eliminate date ambiguity.
4. "General integrity" shall mean no value for current date will cause interruptions in desired operation, especially from the 20th to the 21st centuries.
5. "Implicit century" shall mean for any data element without century, the correct century is unambiguous for all manipulations involving that element.

6. "Product" or "products" shall be defined to include any supplied or supported hardware, software, firmware and/or micro code.
7. "Valid date" shall be defined as a date containing a four digit year, a two digit month and a two digit day, or the ISO 8601:1988, "Data Elements - Information Exchange Representation of Dates and Times." When ordinal dates are used, IO format CCYYDDD is used.

The Manufacturer(s) warrant that products required by this Contract shall be able to accurately process valid date data when used properly. Products under this Contract possess general integrity, date integrity, explicit and implicit century capabilities. Where the Contract requires that specific products must perform as a system, then the warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the State for breach of this warranty shall include repair or replacement of any product whose non-compliance is discovered by the Contractor or the State within 180 days from discovery.

Equipment Purchase	Percent Discount Off Manufacturer's List Price	Percent Discount Off Manufacturer's List Price
Equipment Manufacturer	(All Hardware)	(All Software)
Adtran		
CSU/DSU Products	30%	30%
T1/FT1 Products	30%	30%
Accessories	10%	10%
Alcatel		
3x50 Mux Products	35%	35%
Check Point		
Non-Education	N/A	5%
Education	N/A	7%
Fujitsu		
Sonet Packages	25%	25%
Lucent		
Sonet Packages	25%	25%
Newbridge Networks		
Access Switch Products	35%	35%
ATM Switch Products	35%	35%
Nortel Networks (Bay Networks)		
Switch Products (Non-Education)	33%	33%
Switch Products (Education)	35%	35%
Hub Products (Non-Education)	33%	33%
Hub Products (Education)	35%	35%
Multi-Service Switch Products (Non-Education)	33%	33%
Multi-Service Switch Products (Education)	35%	35%
PictureTel		
Group & Compact Systems, MCUs & Streaming Products	21%	N/A

Imux's Monitors, Carts, & Peripheral Products	1.25%	N/A
Desktop & LiveLan Products	3.75%	N/A
Software Products	N/A	23%
Cable Products	0%	N/A
PolyCom		
ViewStation Products	18%	N/A
ViewStation Accessories	1.25%	N/A
ShowStation IP Products	18%	N/A
ShowStation IP Accessories	18%	N/A
Accessories	18%	N/A
VTEL		
High-End Room Products	28%	N/A
Low-End Room Products	22%	N/A
Low-End Personal Products	10%	N/A
High-End Personal Products	14%	N/A
High-End WorkGroup Products	14%	N/A
Low-End WorkGroup Products	25%	N/A
Integrator System Products	22%	N/A
Software Products	N/A	20%
Accessories	1%	N/A

Equipment Purchase	Percent Discount Off Manufacturer's List Price (All Hardware)	Percent Discount Off Manufacturer's List Price (All Software)	Percent Discount Off Manufacturer's List Price (Maintenance)
Equipment Manufacturer			
Cisco	36%	36%	20%
Kentrox	35%	35%	0%
AAC-3 ATM Concentrator Products	35%	35%	0%
Access Concentrator Products	35%	35%	0%
CSU/DSU Products	35%	35%	0%
Network Management Products	35%	35%	0%
T-1 ATM Access Concentrator Products	35%	35%	0%
Accessories	10%	10%	0%

Equipment Purchase	Percent Discount Off Manufacturer's List Price (All Hardware)	Percent Discount Off Manufacturer's List Price (All Software)	Percent Discount Off Manufacturer's List Price (Maintenance)
Equipment Manufacturer			

Larscom			
Access-T Products	28%	28%	0%
Orion 2000 Products	17%	17%	0%
Orion 4000 Products	17%	17%	0%
Accessories	17%	17%	0%

SOUTHWESTERN BELL EQUIPMENT INSTALLATION

Statement of Work

Installation Services Include:

- Staging and configuration of all equipment
- Connection of equipment to power outlets and network interfaces (LAN and WAN interface).
- Verify proper grounding of equipment rack(s) per manufacturer specifications.
- Power-up test of all equipment
- Conduct local loopback tests with equipment as required.
- Verify network connectivity (e.g., ping/extended ping test)
- Provide acceptance document
- Installation services conducted during normal business hours, Monday through Friday, 8am – 5pm.

Services Not Included:

- Network circuit testing
- Installation documentation (e.g., network diagrams, configurations, as-builts, etc.)
- Mounting and Installation of backboards, racks and network extensions (Demarc, LAN cabling, etc.)
- End-to-End application testing and certification.
- Project Management/Coordination

Customer Responsibilities:

- Site Survey should be completed by customer or vendor of choice, and provided prior to installations.
- Site Preparation and Circuit installation completed prior to scheduling of installation.
- Circuit Demarc must be within 15 feet within the same workspace where equipment is to be installed.
- Electrical outlets must be within 5 feet within the same workspace where equipment is to be installed and meet the respective vendor specifications/requirements.
- Insure proper grounding in compliance with industry standards is located within 15 feet of workspace where equipment is to be installed. Proper grounding of existing racks will be the customer's responsibility.
- Responsible for all equipment configurations (initial and post-installation).

Equipment Installation Required Pricing Section

Equipment Installation Services	Simple System or Component Install i.e. leaf node router, CSU/DSU, processor card, etc. (Approx. 2 hrs. Onsite)	Intermediate System or Component Install, i.e. leaf network router, CSU/DSU shelf, etc. (Approx. 4 hrs. Onsite)	Complex System Multi-Component Install, i.e. core distribution router, memory upgrade, etc. (Approx. 6 hrs. Onsite)
Austin, Dallas, Houston, or San Antonio			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 375.00	\$ 375.00	\$ 375.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 85.00	\$ 85.00	\$ 85.00
Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote Price
Abilene, Amarillo, Beaumont, College Station, Corpus Christi, El Paso, Lubbock, McAllen, Midland, Tyler, Waco, and Wichita Falls			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 425.00	\$ 425.00	\$ 425.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 150.00	\$ 150.00	\$ 150.00

Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote
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**Amendment No. 3
To
Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the Department of Information Resources,
successor agency to the General Services Commission
("DIR")
And
Southwestern Bell Telephone Co.**

This Amendment No. 3 to Contract No. TEXAN 2000 – SWB – EPI, is by and between the Department of Information Resources (DIR) as successor agency to the General Services Commission (GSC) and Southwestern Bell Telephone Co. (SWB) and is effective as of the date of the last signature below (3rd Amendment Effective Date).

WITNESSETH:

WHEREAS the State of Texas, acting by and through the General Services Commission and SWB entered into GSC Contract No. TEXAN 2000 – SWB – EPI dated August 31, 1999 (the "Agreement"); and

WHEREAS, the Agreement was amended by Amendment 1, dated February 14, 2000 and Amendment No. 2, dated June 29, 2000; and

WHEREAS, by Act of the Texas Legislature effective September 1, 2001, the authority, duties and responsibilities for telecommunications for the State of Texas transferred from GSC to the Department of Information Resources (DIR), including all vendor contracts; and

WHEREAS, as part of the Agreement SWB is to provide certain equipment sales to qualified ordering entities authorized to participate in DIR's vendor contracts; and

WHEREAS, DIR and SWB now wish to enter into this Amendment No. 3 to provide updated pricing on equipment to be provided by SWB, as defined, and to modify certain terms and conditions to bring the Agreement into conformance with DIR's other vendor contracts.

NOW THEREFORE, DIR and SWB agree as follows.

1. Attachment A to this Amendment No. 3 is approved as the terms and conditions of the equipment which may be ordered from SWB by DIR, other state agencies and QOE's, as defined in the Agreement. Attachment A to this Amendment No. 3 is to be added to Contract No. TEXAN 2000-SWB-EPI as Amended Exhibit F (Equipment Pricing). It is the intent of the parties to substitute pages within the Contract for ease of administration. 2. Attachment B to this Amendment No. 3 is approved as the additional terms and conditions under which Contract No. TEXAN 2000 – SWB – EPI will be administered from and after the 3rd Amendment Effective Date. Attachment B - Exhibit H to Contract No. TEXAN

2000 – SWB – EPI – is to be added to Contract No. TEXAN 2000 – SWB – EPI as Exhibit H for ease of administration.

3. The terms and the conditions of the Agreement, as amended, shall apply except as expressly amended in Sections 1 and 2 above of this Amendment No. 3. In the event of any conflict between the Agreement and this Amendment No. 3, the order of precedence for governance is this Amendment No. 3, Amendment No. 2, Amendment No. 1 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, we hereby execute this Amendment No. 3 to be effective upon the date of the last party to sign.

State of Texas, acting by and

Southwestern Bell Telephone Company

through the Department of Information Resources

By: Patrick W. Hogan

By: J. N. Shelgren

Name: Patrick W. Hogan

Name: James N. Shelgren

Date: 11-01-01

Date: 11.01.01

ATTACHMENT B TO THIRD AMENDMENT AGREEMENT

Exhibit H

To TEXAN 2000 – SWB – EPI

Additional Terms and conditions to TEXAN 2000 – SWB – EPI, as amended.

- 1. Article II of the Contract is amended to add the following additional term:**

F. "Contract Administrator" means the individual appointed by DIR to administer this Contract on behalf of the State of Texas and the authorized QOEs.

- 2. Article III of the Contract is amended to add paragraphs E. and F. as follows:**

E. Price Guarantees

For orders received for single units, vendor shall apply the discount and/or pricing as stated in this Agreement, as amended. For orders larger than one unit, vendor and QOEs may negotiate quantity price discounts below the discounts and/or pricing as stated in this Agreement, as amended.

F. Administrative Fee

The Administrative Fee shall be included in the charges for the Goods and Services set forth in Exhibit F, the Clarification Document, on the website and quoted to QOE. Contractor's obligation to pay such amounts shall be suspended to the extent that its payment or collection violates any state or federal laws.

Contractor will pay DIR, on a monthly basis, the Fee based on a percentage of the sales price of Contractor sales to QOEs pursuant to this Contract. Payment is due based on sales, net of returns and credits. Contractor will provide payment to DIR five (5) business days after the end of each month. The Administrative fee is based on 1% of each sale of CISCO Products and 2% of each sale of all other manufacturers' products.

- 3. Article XIII of the Contract is amended to add paragraphs P. through KK. as follows:**

P. Records and Audit.

- a) Contractor shall maintain adequate records to establish compliance with this Contract until the later of a period of four years after termination of this Contract or until full, final and unappealable resolution of all audit or litigation issues that arise under this Contract. Such records shall include documentation of the date each QOE placed an order, identification of the ordering QOE, the product and quantity ordered, including the name of the product and the publisher or manufacturer of the product, the price quoted to the QOE for such order, the QOE purchase order number, the order date, ship date, MSRP, shipping address, the invoice sent to the QOE relating to the order, the record of QOE payment and/or balance due, the calculations supporting each administrative fee owed DIR under this Contract and such other documentation as DIR may require.
- b) Contractor shall grant access to all paper and electronic records, books, documents, accounting procedures, practices and any other items relevant to the performance of this Contract to DIR, the auditors designated by DIR, including auditors of the State Auditors' Office and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, auditing and/or copying such books and records. Copies and printouts requested by DIR shall be provided by Contractor without charge. DIR shall provide Contractor ten business days' notice prior to inspecting, auditing and/or copying Contractor's records. Contractor's records, whether paper or electronic, shall be made available during regular office hours. Contractor personnel familiar with the Contractor's books and records shall be available to DIR staff and designees as needed to explain the books and records to the extent necessary for the audit or inspection to be performed. Contractor shall provide adequate office space to DIR staff during the performance of an audit.
- c) If any inspection or audit performed hereunder reveals an aggregate overcharge to QOEs of .5% or greater, or an aggregate underpayment to DIR of its administrative fee of .5% or greater, then the cost of such audit or inspection, including, but not limited to, the salary and associated overhead of DIR staff performing the audit or inspection, shall be reimbursed to DIR within thirty days from receipt of an invoice from DIR reflecting the cost of the audit or inspection.
- d) In the event of a discrepancy between the amount determined by the Texas Comptroller of Public Accounts as having been paid to Contractor on behalf of a QOE and the amount Contractor calculates DIR's administrative fee provided for such QOE, the amount reflected by the Comptroller of Public Accounts shall be presumed correct unless

Contractor can demonstrate to DIR's satisfaction that Contractor's calculation of DIR's administrative fee is correct.

- Q. Web Site Maintenance.** Contractor agrees to maintain and support an Internet website with Product pricing, configuration assistance, Product descriptions and Product specifications. Pricing on the Internet website shall include the DIR Administrative Fee.
- R. Change In Contractor Representatives.** Contractor shall appoint a primary representative to work with the Contract Administrator to maintain, support and market this Contract. DIR reserves the right to request a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the DIR, serving the needs of the State of Texas and the QOE's adequately.
- S. Confidentiality.** Contractor acknowledges that DIR is a government agency subject to the Texas Public Information Act. Contractor also acknowledges that DIR will comply with the Public Information Act and with all opinions of the Texas Attorney Generals' office concerning this Act.

Under the terms of this Contract DIR may provide Contractor with information related to DIR QOE's. Contractor shall comply with all DIR Privacy Policy Guidelines, including, but not limited to, the requirement that Contractor shall not re-sell or otherwise distribute or release to any party in any manner DIR or QOE's information.

- T. FCC Certification.** Contractor agrees that machines supplied by Contractor comply with applicable FCC regulations.
- U. Survival.** Warranty and Service agreements that were entered into between Contractor and a QOE's under the terms and conditions of this Contract shall survive the termination of this Contract.
- V. Notification.** Either party may give written notice to the other party in accordance with the terms of this paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three business days after being mailed.

<u>To DIR:</u> Bill Peek P.O. Box 13564 Austin, Texas 78711	<u>To Contractor:</u>
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Either party may change its representative or address above by written notice.

W. Administration Reporting and Fees. Contractor agrees to provide monthly Contract utilization reports to the Contract Administrator in accordance with the following schedule. The reports will be due five business days after the end of each month.

- a) A monthly report shall state the sales under the contract for the period. The report shall be accompanied with a check payable to Texas Department of Information Resources for the calculated Administrative Fee.
- b) A detail sales report will be issued monthly that includes no less than each QOE's, Order Date, Ship Date, Manufacturer, Quantity, QOE's Price, Extended Price, MSRP, QOE's Purchase Order Number, Shipping Address, and other information as required by DIR.
- c) Reports as required by DIR that will reflect the amount of work being subcontracted to Historically Underutilized Businesses, as defined by Texas State law.

All reports are to be submitted electronically as defined by DIR.

The failure to file the utilization reports and fees on a timely basis shall constitute grounds for suspension of the Contract or termination of the Contract for cause. Contractor's liability for any breach of this Section shall not under any circumstances exceed the amount of Administrative Fees owed to DIR by Contractor.

X. Contractor Certifications . Contractor certifies (i) it has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; (ii) it is not currently delinquent in the payment of any franchise tax owed the State of Texas and is not ineligible to receive payment under § 31.006 of the Texas Family Code and acknowledges this Contract may be terminated and payment withheld if this certification is inaccurate; (iii) neither it, nor anyone acting for it, has violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage; (iv) it has not received payment from DIR or any of its employees for participating in the preparation of this Contract; and (v) during the term of this Contract, it will not discriminate unlawfully against any employee or applicant and that, upon request it will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

Y. DIR Logo. Contractor may use the DIR logo in the promotion of this Contract to QOEs with the following stipulations:

- a) The logo may not be modified in any way;
- b) When displayed, the size of the DIR logo must be equal to or smaller than the Contractor logo;
- c) The sole use of the DIR logo will be to communicate the availability of Software and Services available under this Contract to QOEs; and
- d) Any other use of the DIR logo requires prior written permission from DIR.

Z. Technology Access, as required by § 2157.005, Texas Government Code. The Contractor expressly acknowledges and agrees that State funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, the Contractor represents and warrants to DIR and each QOEs purchasing products under this Contract that the technology provided hereunder is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology of: (1) providing equivalent access for effective use by both visual and nonvisual means; (2) presenting information, including prompts

used for interactive communications, in formats intended for nonvisual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical display and customizable display appearance.

- AA. Commodity Software.** Texas Government Code, § 2157.068 requires State Agencies to buy commodity software in accordance with contracts developed by DIR unless the agency obtains a waiver from DIR. Therefore, Contractor agrees to coordinate all commodity software sales made coincident to this agreement through existing DIR contracts if available.
- BB. Dispute Resolution.** The dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used to attempt to resolve any claim for breach of contract made by the Contractor that is not resolved in the ordinary course of business.
- CC. Preference to Texas Products.** Vendor agrees to comply with Sections 2155.444 and 2155.4441, Texas Government Code.
- DD. Training.** The Contractor may be required to provide product overview training to DIR at no cost. The training will be held within the Austin area at times acceptable to DIR.
- EE. Ability to Conduct Business in Texas.** The Contractor is an entity authorized and validly existing under the laws of its state of organization, is authorized to do business in Texas, and is not in default as to taxes owed to the State of Texas or any of its political subdivisions.
- FF. Payment of Debts owed the State.** Contractor acknowledges and agrees that, to the extent Contractor owes any debt or delinquent taxes to the State of Texas, in accordance with § 403.055(h), Texas Government Code, any payments Contractor is owed under this Contract will be applied by the Comptroller of Public Accounts toward any debt or delinquent taxes Contractor owes the State of Texas until the debt or delinquent taxes are paid in full.

GG. Vendor is QISV. Contractor is a "Qualified Information Systems Contractor" as defined in § 2157.001, Texas Government Code. All Information Resources Technologies offered to QOE's under this Contract are listed in Contractor's catalogue on file with the General Services Commission.

HH. Suit Or Pending Proceedings. To the best of the Contractor's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting the Contractor, which if determined adversely to the Contractor will have a material adverse effect on the ability of the Contractor to fulfill its obligations under the Contract.

II. Trade Shows. Vendor understands and agrees that it must participate fully by providing a staffed booth display or similar presence at no less than two trade shows or similar functions sponsored by DIR each calendar year, at Vendor's expense. Vendor agrees to display the DIR logo at all trade shows directed toward entities that qualify as DIR customers.

JJ. Shipment and Risk of Loss. The QOE may request expedited shipping for an additional charge.

KK. Impracticability of Performance. A QOE may terminate a Purchase Order for convenience under Article IX B., if it is determined by the QOE that Vendor will not be able to deliver product or services in a timely manner to meet the business needs of the QOE.

Equipment Purchase	Percent Discount On Manufacturer's List Price	Percent Discount On Manufacturer's List Price	Percent Discount On Manufacturer's List Price
Equipment Manufacturer	(All Hardware)	(All Software)	(Maintenance)
Adtran			
Multiplexing products	30%	30%	0%
Accessories Accessories Accessories	10%	10%	0%
Alcatel/Newbridge			
Access Switch Products	35%	35%	0%
OmniSwitch/OmniCore Products	35%	**PS	0%
Optical Transport Products	25%	0%	0%
** PS (Product Specific with discounts from 10-35%)			
Check Point	N/A	7%	0%
Cisco	36%	36%	20%
Fujitsu	25%	25%	0%
Kentrox	35%	35%	0%
Accessories	10%	10%	0%
Larcom			
Access-T Products	28%	28%	0%
Orion Products	17%	17%	0%
Accessories	17%	17%	0%
Lucent			
Sonet Packages	25%	25%	0%
Newbridge Networks	SEE ALCATEL LISTING ABOVE		
Nortel Networks (Bay Networks)	35%	35%	10%
PictureTel			
PT 680, 960, 970			
ACCORD MGC 50, 100	35%	N/A	0%
Miscellaneous add-ons and Peripherals	10%	N/A	0%
Upgrades and other add-ons	15%	N/A	0%
Team Station 128, 384	30%	N/A	0%
Live LAN, Live Share & Live Manager	32%	N/A	0%

Equipment Purchase	Percent Discount Off Manufacturer's List Price	Percent Discount Off Manufacturer's List Price	Percent Discount Off Manufacturer's List Price
Equipment Manufacturer	(All Hardware)	(All Software)	(Maintenance)
PolyCom			
ViewStation - H.323, 128, 512, MP, V.35			
ViewStation 4000 H.323, V.35, PRI	43%	N/A	0%
ViewStation SP 128, 512	20%	N/A	0%
ViaVideo	25%	N/A	0%
Education Packages (S,M,L)	15%	N/A	0%
Services/Warranty	0%	N/A	0%
ViewStation MP DCP, H.323	30%	N/A	0%
VTEL			
Discount for Galaxy RL & XL Enhancement Pkgs, ESA TC2000 & LC5000 Enhancement Pkgs, H.320 MCUs.	36%	0%	0%
Discount for Galaxy PL, Galaxy SL, Galaxy CL systems, ESA Platforms, ESA Single Carted Systems, ESA Model 50, SVNMs.	25%	0%	0%
Discount for Galaxy MT, H.323 MCUs, Gateways, Encounter	15%	0%	0%
Discount for all system options & field upgrades, Galaxy CL-100 Enhancement Package, Galaxy CL-200 Enhancement Package.	5%	0%	0%
Services/Warranty	0%	0%	0%

*Please note that the Galaxy nomenclature has changed:

Galaxy PL	Galaxy Platform System
Galaxy MT	Galaxy MiniTower
Galaxy SL	Galaxy Single Carted System (formerly Galaxy 755)
Galaxy RL	Galaxy RL Enhancement Package (formerly Galaxy 2500 enhancement)
Galaxy XL	Galaxy XL Enhancement Package (formerly Galaxy 5500 enhancement)
Galaxy CL	Galaxy Classroom System

Amendment No. 4
To
DIR Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the Department of Information Resources ("DIR")
And
Southwestern Bell Telephone Co. ("SBC")

This Amendment No. 4 to Contract No. TEXAN 2000-SWB-EPI, is by and between the Department of Information Resources (DIR) and Southwestern Bell Telephone Co. (SBC) and is effective as of September 1, 2002.

The parties agree to amend Contract No. TEXAN 2000-SWB-EPI as follows:

1. The Agreement is hereby extended through the period ending August 31, 2004, or until terminated pursuant to the termination clauses contained in the Agreement. DIR reserves the option to extend this Agreement for up to three (3) additional one-year periods, not to exceed a total contract term of eight (8) years, (August 31, 2007).
2. The following Section, Article XIII. MISCELLANEOUS, of the Agreement is hereby modified:

Add paragraph in its entirety –

P. HANDLING OF WRITTEN COMPLAINTS. In addition to other remedies contained in this Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office
Department of Information Resources
Attn: Matt Kelly
300 W. 15th Street, Suite 1300
Austin, TX 78701
(512) 936-6550, voice
(512) 475-4759, fax
Email: matt.kelly@dir.state.tx.us

3. The terms and conditions of the Agreement, as amended, shall apply except as expressly amended in Section 1 and 2 above of this Amendment No. 4. In the event of any conflict between the Agreement and this Amendment No. 4, the order of precedence for governance is this Amendment No. 4, Amendment No. 3, Amendment No. 2, Amendment No. 1 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed by the duly authorized representatives of the parties and is in full force and effect as of September 1, 2002.

**SOUTHWESTERN BELL
TELEPHONE CO.**

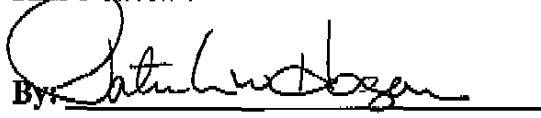
By: 

Name: William F. PENAK

Title: Global Account Director

Date: 5/5/03

**STATE OF TEXAS
acting by and through the
DEPARTMENT OF INFORMATION
RESOURCES**

By: 

Name: Patrick W. Hogan

Title: Director of Business Operations

Date: 5/2/03

Legal: gln 5/1/03

ATTACHMENT 3

Statement of Karen Griffith



Kingsville Independent School District

Chief Administrative Officer

P.O. Box 871
Kingsville, Texas 78364
(361) 592-3387

TO: Daniel Farslow, E-Rate Central

FROM: Karen Griffith, Chief Administrative Officer

RE: Service Provider Approval

DATE: October 21, 2009

In recalling the events for approval of the provider agreement for the Form 471, the facts are as follows:

In late January, 2003 a meeting took place in the Office of the Assistant Superintendent of Curriculum and Instruction to select the E-Rate service providers and discuss their budgetary impact. In attendance were Suzanne Wesson (Assistant Superintendent for Curriculum and Instruction), Karen Weisman (Assistant Superintendent for Support Services), Dorothy Stroeck (Director of Technology), and myself (Karen Griffith as Director of Finance). During the meeting, we discussed the proposals received for the Fiscal Year, 2003 that were going to be submitted to E-Rate on the 471 Form. I recall the discussion regarding the fact that Southwestern Bell was the only service provider available. The concern was that there were no other service providers. Ms. Stroeck informed the committee that Southwestern Bell was the only approved provider at the time for the state. The contracts were reviewed and approved. The budgetary impact was discussed and the matching portion for KISD was identified and submitted to the Board through the budget process in August, 2003.

Karen Griffith
Chief Administrative Officer
Kingsville ISD

ATTACHMENT 4

USAC Appeal with 3 Attachments



Kingsville Independent School District

P.O. Box 871 / 207 N. Third
Kingsville, Texas 78363
Office: (361) 592-3387 x142
Fax: (361) 516-0278

June 16, 2009

Letter of Appeal
Schools and Libraries Division – Correspondence Unit
100 South Jefferson Road
P.O. Box 902
Whippany, New Jersey 07981

SUBJECT: *Appeal of Funding Commitment Adjustment Decision*

Funding Year: 2003
Letter Date: April 17, 2009
Form 471#: 369934
FRNs: 1043026, 1043201, 1043284, 1043345, 1043393, 1043491, 1043533 and 1043598
Billed Entity Name: KINGSVILLE INDEPENDENT SCHOOL DISTRICT
BEN: 141586

CONTACT PERSON: Daniel L. Farslow, E-Rate Central

Phone: 614-487-9567
FAX: 614-487-9362
E-mail: dfarslow@e-ratecentral.com

RATIONALE FOR COMMITMENT ADJUSTMENT DECISION: “During the course of the review it was determined that the applicant did not have a contract in place at the time of the submission of the Form 471.”

We respectfully appeal the USAC decision to adjust the commitment and recover the disbursed funds awarded through the FRNs listed above because “...it was determined that the applicant did not have a contract in place at the time of the submission of the Form 471.” In fact, we have gathered considerable evidence indicating that Kingsville Independent School District (ISD) did enter into a contract with SWB (SBC) Datacomm. Kingsville ISD selected the Texas Department of Information Resources (DIR) State Master Contract *TEXAN 2000-SWB-EPI* and service provider SWB (SBC) Datacomm to provide equipment requested in the named FRNs.

Prior to the Bearing Point site visit in April 2006, Kingsville ISD had gone through a difficult time, where the Technology Director responsible for the FY2003 E-rate application process, Ms. Dorothy Stroeck, left the district suddenly and the Technology office was relocated due to district building renovations. This left the Technology Department without adequate management and the filing system, including our E-rate files, in considerable disarray.

While our newly appointed Technology Director, Mr. J. Diego Vázquez-Cruz, did his best to work with and answer questions posed by Mr. Dan Friend, USAC’s Assistant Manager for External Relations – Site Visit Team, after the site visit, his lack of experience and understanding of the E-rate program left him unprepared and unable to determine the contract status of the

initial FRN or find a copy of the contract. He ultimately stated, in an email to Mr. Friend, that he was "unable to provide" a contract with the service provider pertaining to the FRN in question due to the situation described above and instead provided a copy of a Purchase Order from the time of installation, dated June 24, 2004. Information requests from USAC then expanded to include all FY2003 Priority 2 FRNs from SBC Datacomm and the response was the same, resulting in the Commitment Adjustment (COMAD) decision letter of April 17, 2009.

With the COMAD letter came new impetus to search existing records and files for a contract with SBC Datacomm. As the appeal deadline approached, Kingsville ISD entered into an agreement with E-Rate Central to provide consulting services (June 12, 2009) to help us review the records available in our location and to research possible records pertaining to the FY2003 application outside our location.

As a result, we discovered that there was indeed a contract in place for our FY 2003 SBC Datacomm FRNs and it was Texas DIR State Master Contract *TEXAN 2000-SWB-EPI* that had been in place from 2000 through October 28, 2003 (Attachment 1.) The Item 21 Attachment #5 (Attachment 2) for the funding requests, provided by SBC Datacomm, clearly lists eligible equipment and discounts authorized by the Texas DIR State Master Contract.

In addition, we found a copy of a Kingsville ISD FAX Cover Letter from Ms. Dorothy Stroeck, addressed to Mr. Richard Atwell at SBC Datacomm, dated February 12, 2003, stating that the FAX included the "signed contract" for services with SBC Datacomm for the funding year (Attachment 3.) Unfortunately, at this time we have only located the Cover letter, not the actual contract pages with it, so we do not know the contents or date of the actual signed contract document.

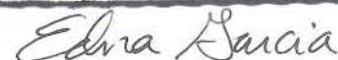
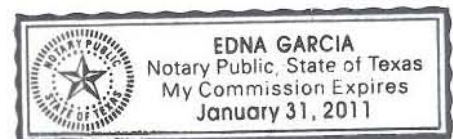
As we submit this appeal we are still in the process of searching through files and records and working with the service provider to recover relevant documentation. While we believe that we have documented the fact that Kingsville ISD did have an agreement in place with SBC Datacomm through the identified State Master Contract for the FRNs under COMAD, we are confident that we will soon find more complete documentation to substantiate our appeal.

In that regard, considering the gravity and severe consequences of the Commitment Adjustment and due to the fact that, since we have brought our E-Rate consultant on-board, we have made substantial progress in recovering documentation, we respectfully request that USAC consider this appeal a placeholder and allow Kingsville ISD the opportunity and time to complete our research and to submit more complete documentation as it becomes available.

Finally, we stress the fact that the prices paid for the equipment and services here under appeal reflect the prices negotiated by the State and were reasonable by any measure. We also stress that services and equipment installed were not excessive and reflected the actual needs of Kingsville ISD. There was absolutely no waste, fraud, or abuse of program resources.



Emilio Castro
KISD Superintendent



ATTACHMENT 1

**TEXAN 2000 SALES
AGREEMENT
BETWEEN
THE STATE OF TEXAS, GENERAL SERVICES COMMISSION
AND
SOUTHWESTERN BELL TELEPHONE CO.
GSC Contract No. TEXAN 2000 – SWB – EPI**

This TEXAN 2000 Sales Agreement (the "Agreement") is made and entered into by and between the The State of Texas, General Services Commission, a state agency whose address is 1711 San Jacinto, Austin, Texas 78701 (the "GSC") and Southwestern Bell Telephone Co. ("Contractor"), a Missouri corporation, with offices at 175 E. Huntland, Austin, TX 78215.

The GSC is authorized to enter this Agreement pursuant to the Chapter 2170 of Title 10, Subtitle D of the Texas Government Code. In consideration of the mutual covenants and agreements, herein contained, the parties hereto agree to the following:

**ARTICLE I.
CONTRACT DOCUMENTS**

This Agreement and the documents, listed below, together constitute the Contract and shall be referred to as the Contract Documents. The referenced documents are as follows:

- 1) Request for Offer Number 99-TELE-2000 including all addenda (the "RFO"), Exhibit A hereto;
- 2) Contractor's Response to the RFO, Exhibit B hereto;

- 3) The Best and Final Offer (BAFO) for 99-TELE-2000, Exhibit C hereto;
- 4) Contractor Response to BAFO, Exhibit D hereto;
- 5) Contractor's post-BAFO submissions, Exhibit E hereto;
- 6) Clarification Document and its attachments, Exhibit F hereto; and
- 7) HUB Participation Information, Exhibit G hereto.

This Agreement shall be construed wherever possible to avoid conflict between and among the Articles hereof and the Exhibits hereto. Where a conflict cannot be avoided, the following descending order of precedence shall be observed in determining which of the Contract Documents contains the controlling provision::

- 1) This Agreement;
- 2) Exhibit G;
- 3) Exhibit F (as to particular goods or services);
- 4) Exhibit E;
- 5) Exhibit D;
- 6) Exhibit C;
- 7) Exhibit B; and
- 8) Exhibit A.

Exhibits A – E and G are on file in the Central Procurement Division of GSC.
Exhibit F is an attachment to this Agreement.

ARTICLE II.

DEFINITIONS

A. "Qualified Ordering Entities" or "QOE" means the GSC, other Texas State agencies and qualified political subdivisions of the State of Texas, as specified in the Exhibit F (Clarification Document). The parties to this Agreement reserve the right to amend this definition to facilitate use by other states and their agencies, consistent with Texas SB 1127, Acts of the 76th Legislature, effective June 18, 1999.

- B. "Purchase Order"** means the document issued by a QOE which specifies the quantity of goods and/or services to be provided by Contractor and as agreed to by Contractor under this Agreement (collectively, "Goods and Services"), as more particularly described in Exhibit F (Clarification Document). The terms and conditions of a Purchase Order govern the sales transaction between that QOE and the Contractor only as to the type, number, price and delivery and installation terms for the Goods and Services. To the extent the Purchase Order has other, preprinted provisions which are inconsistent with the Contract Documents, the Contract Documents prevail.
- C. "Clarification Document"** means a document created by Contractor and approved by GSC, which is consistent with Contractor's Response to the 99-TELE-2000 RFO, the BAFO and post-BAFO submissions, and which sets out clearly and concisely the scope of Goods and Services to be provided under this Agreement. The Clarification Document is Exhibit F to this Agreement.
- D. "Affiliate"** means an entity which controls, is under the control of, or under common control with Contractor, through ownership or by contract.
- E. "User"** means the individual officers, employees, contractors and agents of a QOE who are authorized by the QOE to use the Goods and Services available under this Agreement.

ARTICLE III.

GLOBAL SALES AGREEMENT

- A.** During the term of this Agreement, Contractor agrees to accept Purchase Orders from QOEs for any of the Goods and Services specified in Exhibit F

(Clarification Document), so long as the GSC Contract number and Contractor's contract number, if any, appears on the Purchase Order. Contractor agrees to fulfill the Purchase Orders consistent with the delivery and/or installation instructions issued by the QOE and to perform in accordance with the covenants and warranties specified in this Agreement.

- B. This Agreement guarantees no minimum quantity of orders for Goods and Services to Contractor. Contractor may not establish any limits on use of this Agreement by QOEs without the prior written consent of GSC.
- C. Contractor shall report no less than quarterly on all Goods and Services ordered under this Agreement, including in such reports the identity of the QOE per order, the date of order, quantity of each type of Goods and Services ordered, price, usage and other data as may be agreed between GSC and the Contractor. Contractor agrees to coordinate with GSC on the format of such reports and to work diligently to agree on such format within 60 days of the effective date of this Agreement.
- D. Goods and Services ordered under this Agreement may only be used for official business of the QOE.

ARTICLE IV.

TERM

This Agreement shall be in effect upon the date of the last party to sign and will continue for a period of five (5) years. GSC reserves the option to extend this Agreement for five (5) additional one year periods, not to exceed a total contract term of ten (10) years.

ARTICLE V.

GOODS AND SERVICES

Contractor will provide the Goods and Services more particularly described in Exhibit F (Clarification Documents). Contractor will furnish the Goods and Services to GSC and/or QOEs under the terms and conditions of this Agreement.

ARTICLE VI.

SOFTWARE LICENSE

Contractor warrants that the manufacturer of the software used to maintain and operate the Equipment shall grant to the QOEs a nonexclusive, nontransferable license for the life of the Equipment to use the software, including related documentation, solely to maintain and operate the Equipment, provided the QOEs: (i) to the extent permitted by the Texas Public Information Act, does not allow any aspect of the software to be disclosed to a third party without the software manufacturer's written consent and makes reasonable efforts to ensure that its employees are aware of this obligation; (ii) uses the software solely for QOE internal business; (iii) does not modify, reproduce or copy any part of the software without the software manufacturer's written consent and does not attempt to develop any source code from the software; and (iv) returns to software manufacturer or erases or destroys any software on any media being recycled or discarded, due to replacement or termination of license. If applicable, the QOEs may only transfer the right to use the software to any end user who subsequently acquires the right to operate the Equipment.

QOEs acknowledge that the software and features provided by Contractor constitute either the copyrighted property or the proprietary trade secret information of the software manufacturer, or both. The QOE shall use

reasonable precautions to prevent unauthorized use of the software and features or disclosure of the software manufacturer's proprietary trade secret information. The QOE's acknowledge that the software manufacturer retains title to the software (excluding media on which recorded) and all intellectual property rights, with the exception of the license conveyed herein and no title to software or intellectual property rights are transferred to the QOE's.

ARTICLE VII.

WARRANTIES

A. From Contractor:

Limited Warranties shall apply to all ordered Goods and Services, as stated in the applicable Clarification Document(s) and shall be for the period stated in the Clarification Documents.

B. From QOE's:

1. In ordering Goods and Services under this Agreement, the QOE's assure GSC and Contractor that its and its Users' use of the Goods and Services will at all times comply with applicable laws, regulations and written and electronic Instructions for use. Contractor reserves the right to terminate Goods and Services for cause in the event QOE's or the related Users fail to comply with applicable laws, regulations and instructions for use.

2. Goods and Services ordered under this Agreement shall only be used for official business of the QOE. Each QOE is responsible for the lawful use of Goods and Services obtained under this Agreement.

ARTICLE VIII.

LIMITATION OF LIABILITY

Applicable limitations of liability which may apply to specific Goods and Services are as set out in Exhibit F (Clarification Document). **IN NO EVENT SHALL SWBT BE LIABLE FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.**

ARTICLE IX.

REMEDIES

A. Termination for Cause. If any party at any time commits any material breach of any covenant, warranty, or provision of this Agreement or a Purchase Order arising hereunder and, having been given the opportunity to correct, fails to cure any such breach within thirty (30) days after written notice thereof, the other party may, at its option, and in addition to any other remedies available to it at law or equity, cancel and terminate the Purchase Order by notice in writing to the breaching party. Only GSC and the Contractor may terminate the Agreement for cause, effective thirty (30) business days after receipt of written notice. Where the breach is related to nonpayment by a QOE, Contractor will use reasonable efforts to advise GSC and the Contractor will cooperate with GSC and the QOE in an attempt to resolve any bona fide dispute that is the basis of the non-payment.

B. Termination for Convenience. QOEs may terminate a Purchase Order arising under this Agreement upon seven (7) business days written notice to Contractor. QOEs shall remain responsible and liable for payment for Goods and Services received prior to the effective date of termination. Only GSC and Contractor may terminate the Agreement for convenience, effective thirty (30)

business days after receipt of written notice. The covenant of payment for Goods and Services received survives termination of this Agreement and/or a related purchase order.

ARTICLE X.

NOTICES

Except as otherwise specifically provided in Exhibit F (Clarification Document) for telephonic notices, all notices required to be given under this Agreement shall be in writing and either mailed by certified or registered mail, postage prepaid return receipt requested, sent by express courier, facsimile transmission or electronic means, with hard copy receipt, or hand delivered and addressed to each party at the address set forth on the front of this Agreement or, if the notice relates to a specific Purchase Order, the address set forth in such Purchase Order, or, in any case, such other address a party designates in writing.

ARTICLE XI.

HISTORICALLY UNDERUTILIZED BUSINESS PARTICIPATION

Pursuant to Chapter 2161 of the Texas Government Code, the state agency QOEs are required to make a good faith effort to assist Historically Underutilized Businesses ("HUBs") in receiving a portion of the total value of all contract awards issued by the QOEs. Therefore, Contractor shall be required to make a good faith effort to assist HUBs in receiving a portion of the total value of subcontracts that Contractor awards under this Agreement. To make such a good faith effort, Contractor at a minimum must as a condition of award and before execution of this sales agreement submit Good Faith Effort Program forms and documentation and report subcontracting participation after contract execution. Failure to submit HUB subcontracting data will result in revocation of

any contract awarded because of noncompliance. Existing contracts that the Contractor may have for commodities or services will not preclude efforts on the Contractor's part to include HUBs in sub-contracting opportunities. Should any subcontracting occur, the Contractor shall be held responsible for any work performed by the subcontractor and that the subcontractor comply with all parts of this specification including all insurance requirements. The HUB subcontracting participation forms are a part of Exhibit G (HUB Participation Information).

ARTICLE XII.

PAYMENT

- A.** Payment for Goods and Services are due by the thirtieth (30th) day after:
- 1) the date of completed work under the related purchase order;
 - 2) the date of acceptance of ordered goods under the related purchase order; or
 - 3) the date of receipt of a correct and complete invoice, whichever is later.
- B.** Penalties for late payment are as set out in Chapter 2251, Texas Government Code.
- C.** The QOEs are not subject to the assessment or payment of federal, state and local sales and excise taxes.
- D.** Invoices must contain, at a minimum: this Contract number; the number of the Purchase Order to which the invoice relates; description of the Goods and Services provided pursuant to the Purchase Order; V.I.D, other vendor identification information as specified in the Purchase Order.

ARTICLE XIII.

MISCELLANEOUS

- A. Vendor Performance.** QOEs shall report to GSC any instances of vendor non-performance under this Agreement, pursuant to 1 TAC Chapter 113, Subchapter F.
- B. Access.** GSC and QOEs, as appropriate, will provide SWBT reasonable access to all premises at reasonable hours for the purpose of installing, inspecting, testing, rearranging, maintaining, repairing or removing the Services. SWBT will use reasonable efforts to avoid disrupting normal business activities to the extent possible.
- C. Entireties.** This Agreement supersedes any and all prior agreements, representations, or promises made by the parties that differ in any way from the terms and conditions stated herein.
- D. Strict Performance.** Failure at any time to require strict performance by either party of any Agreement provisions shall not waive or diminish GSC's right thereafter to demand strict compliance with any other Agreement provision.
- E. Amendments, Modifications or Changes.** No amendments, modifications or changes to this Agreement shall be made except by a writing signed by the Contractor and GSC.
- F. Assignment.** Neither party shall assign or otherwise transfer its rights or obligations under this Agreement except with the prior written consent of the other, except for assignments to affiliates and successors, for which no consent is required. Said consent shall not be unreasonably withheld.
- G. Force Majeure.** Neither Contractor nor a QOE shall be liable for any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes,

acts of civil or military authority, wars, acts of God, acts or omissions of carriers or suppliers, which are not acting as affiliates under this Agreement, acts of regulatory or governmental agencies, or other causes beyond such party's reasonable control, whether or not similar to the foregoing, except that a QOE's obligation to pay for Goods and Services received shall not be excused.

H. Legislative Appropriation. This Agreement is subject to legislative appropriation and, if no funds are appropriated for payment of this Agreement, this Agreement may be canceled either in whole or part, without penalty to the GSC with thirty (30) days written notice to Contractor, provided GSC and/or QOE's shall pay for all Goods and Services delivered before the effective date of cancellation.

I. Severability. If any provision(s) of this Agreement shall be invalid or unenforceable, such provisions shall not invalidate or render unenforceable the entire Agreement. The entire Agreement shall be construed as if the invalid or unenforceable provision(s) were not included in the Agreement.

J. Subcontracting. During the term of this Agreement, contractor shall not subcontract any additional services to be provided pursuant to this Agreement without obtaining approval from GSC, except for such subcontracting specifically contemplated by this Agreement. In no event will any subcontracting by Contractor relieve Contractor from any of the obligations to perform in accordance with this Agreement.

K. Governing Law. This Agreement will be construed and all disputes hereunder will be settled under the laws of the State of Texas.

L. Sovereign Immunity. Nothing herein shall constitute waiver by the State of Texas of its sovereign immunity. Nothing herein shall be construed to extend sovereign immunity status to other QOE's, which do not otherwise enjoy that

privilege as a matter of law. The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by GSC and state agency QOE's and Contractor to attempt to resolve all disputes arising under this Agreement, and each Purchase Order issued pursuant hereto.

M. Compliance with Laws. This Agreement shall be subject to all applicable laws, court orders, rules and regulations.

N. Binding Effect. The execution of this Agreement by the authorized representatives of the parties shall have binding effect on the entity, its employees, agents, successors and assigns.

O. Open Records Act; Proprietary Information. The parties acknowledge that this Agreement and all information, documentation, and other material pertaining to this Agreement may be subject to public disclosure under the Texas Public Information Act, Chapter 552.001, et seq., Tx. Gov. Code. GSC shall be governed by the Act and the opinions of the Office of the Attorney General with regard to the administration of this Agreement and compliance with the Act, and will provide SWBT with notice of any request for such information.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed to be effective on the date of the last party to sign.

GENERAL SERVICES COMMISSION

SOUTHWESTERN
TELEPHONE COMPANY

BELL

BY: Cal Muller

BY: Charles H. Trammell
Charles H. Trammell

TITLE: Acting Executive Director

TITLE: Regional Vice President

DATE: 8/31/1999

DATE: 8-24-1999

APPROVED AS TO FORM:

8/25/99
Office of General Counsel

8/25/99
Fiscal Management

EXHIBIT F

CLARIFICATION DOCUMENT TO TEXAN 2000 – SWB - EPI

Ⓐ Southwestern Bell Telephone

EQUIPMENT & SALES

1. This is Exhibit F, Clarification Document to the TEXAN 2000 – SWB – EPI Agreement ("Agreement") between Southwestern Bell Telephone Company (SWBT) and General Services Commission of the State of Texas (GSC). The term of this Agreement is from the Term Commencement Date, the date of the last party to sign, and has a primary term of three (3) years, with up to five (5) one (1) year extension options in favor of the State, not to exceed a total term of eight (8) years.

2. DESCRIPTION OF SERVICE TO BE PROVISIONED, INSTALLED AND MAINTAINED: **Telecommunications Equipment**

3. SWBT will sell Equipment for delivery to locations designated by GSC or the QOE within the state of Texas at the prices reflected in the attached pricing summary.

4. **EQUIPMENT AND SERVICES:** This Agreement covers the items of personal property and/or the Services described below and on any Purchase Order(s) executed between the parties, as well as any additions to and accessories and replacements for, the listed Equipment ("Equipment/Services"). Customer will be charged for any additions, deletions or changes ("Changes") in the Equipment/Services. If Customer desires a Change, Customer will notify SWBT by a Revised Purchase Order specifying changes. If SWBT does not receive the executed Revised Purchase Order, no changes will be made to the Customer order. Any increase or decrease in the price occasioned by a Change will be added to/subtracted from the amount of Customer's final Invoice. Any Change involving the deletion of Equipment that was ordered by SWBT from a manufacturer on Customer account, previously shipped, and/or delivered to Customer will result in a restocking charge to Customer of not less than 20% of the selling price. After the date of the complete execution of this Clarification Document (i.e. last required signature), any changes requested by Customer after this date will be processed as a Change.

5. **OWNERSHIP OF EQUIPMENT:** Until Equipment is paid in full, Customer will not move the Equipment from the installed location and will permit SWBT to inspect the Equipment at any reasonable time and will keep the Equipment in good repair, condition and working order at Customer's expense. Until Equipment is paid for in full, the Equipment will also at all times remain the personal property of SWBT and will not become a fixture even if it is affixed, attached, or installed in any real estate or improvements.

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6. CERTAIN OTHER AGREEMENTS: Customer understands and agrees with SWBT as follows:

(a) Installation: SWBT is not responsible for Installation of the Equipment. GSC or QOE's designated Installation contractor shall be responsible for installation, warranty service and maintenance of the Equipment. Customer will arrange to have the Equipment delivered within 90 days from the date of this Agreement, and will provide a suitable and safe environment ready to accept the Equipment. SWBT has not included in SWBT's charges any expense for dealing with, removing or disposing of any potentially hazardous substance, such as asbestos. Customer will be responsible for any additional costs incurred to deal with such matters. Customer will obtain, at Customer expense, any necessary licenses, permits and consents (including any landlord or mortgagee's consents) in connection with the delivery of the Equipment.

(b) Risk of Loss: Customer bears the entire risk of loss, theft, destruction of or damage to the Equipment from any cause whatsoever. In the event of any loss or damage to the Equipment prior to SWBT being paid in full, Customer must either place the equipment in good condition and repair, replace the lost or damaged Equipment with like equipment in good condition and repair with clear title owned by SWBT or pay to SWBT an amount equal to all unpaid payments under this Agreement as of the time of such payment, in which case the Equipment will become the property of Customer and/or Customer insurer, as is and without any further warranty.

(c) No Cancellation or Assignment: Until paid in full, Customer may neither cancel this Agreement nor transfer nor lend any of the equipment nor permit it to be used by anyone other than Customer or Customer's employees. Customer may neither assign Customer's rights or duties nor encumber the Equipment without SWBT's written consent, which SWBT may withhold in SWBT's sole discretion. Upon prior notice to Customer, SWBT may assign or subcontract all or part of SWBT's rights and obligations under this Agreement, in which event Customer will look only to SWBT's assignee and not to SWBT for any further performance

7. REPRESENTATIONS: Customer represents it will not export the Equipment outside the U.S.

8. LIMITED WARRANTIES AND LIMITATION OF LIABILITIES: SWBT warrants that it has good title to the Equipment, free of any claims, liens, encumbrances or security interests of any other party, and that the Equipment conforms to the manufacturer's published specifications, and is free from electrical or mechanical defects in materials and workmanship under normal installation, use and service. After Equipment is installed, upon notice from Purchaser, SWBT will promptly replace Equipment failing to conform to or

perform according to the manufacturer's with, at SWBT's option, new or used replacement parts or fully refund the purchase price. These are Purchaser's exclusive remedies for breach of warranty. However, SWBT is not the manufacturer of the Equipment and therefore, **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES SHALL BE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN LIMITED WARRANTY. IN NO EVENT SHALL SWBT BE LIABLE FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES OR OTHERWISE, INCLUDING DAMAGE TO PROPERTY AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURY. IN NO EVENT WILL SWBT'S LIABILITY FOR DAMAGES CAUSED BY OR ARISING OUT OF ITS FAILURE TO SUPPLY MATERIAL OR PERFORM SERVICES IN A PROPER AND TIMELY MANNER EXCEED THE AMOUNT PAID BY CUSTOMER TO SWBT FOR SUCH MATERIAL AND SERVICES.**

Customer understands that SWBT's price reflects this limitation of liability.

This warranty does not include the following services:

- a. Repair of damage due to Customer's failure to provide adequate electrical power or environmental conditions.
- b. Repair of damages caused by misuse or neglect, improper installation, maintenance or service.
- c. Repair of damages caused by Customer's existing wiring or damage to the existing wiring.
- d. Repair of damage caused by accident and/or disaster, including but not limited to fire, flood, wind, lightning or water.
- e. Repair of damage caused by the attachment of mechanical, electrical or electronic equipment or devices to the system that are not supplied by SWBT.
- f. Repairs which are impractical for SWBT to render because of alterations in or attachments to the system.

Upon Customer's request and at SWBT's option, SWBT will provide any of the foregoing services at its then prevailing standard service rate therefor.

The Warranty provided under this Agreement does not insure uninterrupted operation of the Customer's telecommunications system. Except for the limited warranties set forth herein, the software is provided "as is" without warranty of any kind, either express or implied. SWBT does not warrant that the software, including security software operate without error or will prevent third party hacking or access to Customer's networks.

Customer will be subrogated to any claims or rights SWBT may have against the manufacturer of the equipment for breach of any warranties or representations, and, upon Purchaser's written request, SWBT will take all reasonable actions to enforce on Purchaser's behalf any such express or implied warranties or representations applicable to the Equipment, provided: (1) Customer is not in default of its obligations under this agreement; and (2) the Equipment has not been damaged as a result of misuse, abuse, neglect, accident, improper electrical voltages or currents, or repair, alteration or maintenance by any person or party other than an authorized service facility, or any use violative of the use instructions furnished with the Products by the SWBT or the manufacturer. If the Equipment has not yet been paid for in full, Customer also agrees to first apply all proceeds of any such warranty recoveries from the manufacturer to repair the Equipment.

Notwithstanding the foregoing limitations, SWBT shall:

- A. Indemnify Customer against any claim or threat of claim brought by any third party alleging the Products infringe such party's patents, trademarks or copyright ("the Intellectual Property"), providing that Purchaser: (a) shall have followed SWBT's reasonable instructions for use of the Intellectual Property associated with the Products; (b) shall not have modified the Products; (c) notifies SWBT promptly and in writing of any such claims; and (d) cooperates with and permits SWBT to control the defense, settlement or other handling of such claim or threatened claim. In the event one or more of the Products shall be found not to conform to the Intellectual Property warranty, Purchaser's sole remedy against SWBT shall be, at SWBT's option, for SWBT to: (a) defend Customer against such infringement claim; (b) to substitute other functionally equivalent products for the infringing units or modify the infringing units so that they no longer infringe; or (c) to accept return of the infringing units, providing Customer with credit for the depreciated value of any returned units.
- B. SWBT shall also indemnify Customer against any claim or threat of claim brought by a third party which arises out of any claim or suit for direct damages or relief on account of injury to or death of any person or damage to tangible personal or real property caused solely by SWBT's negligence or willful misconduct in the course of SWBT's performance under this contract

C. Year 2000 Performance Warranty

For purposes of the following warranty, the Contractor, Southwestern Bell Telephone, is not the manufacturer of the equipment and makes no separate express or implied warranties concerning Year 2000 issues. Contractor assigns to Department all manufacturer's warranties. Contractor shall not be liable for any indirect or consequential damages, including any lost profits, loss of business income or revenues or damages for personal injury or property damage related or alleged to have been caused by Year 2000 issues. Contractor will work diligently and expeditiously to resolve any issues caused by Year 2000

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Performance Issues, up to and including replacement of any hardware or software that is non-compliant thereby causing the products to not perform as designed for this Contract.

For purposes of this warranty, the following definitions shall apply:

1. "Accurately" shall be defined to include:
 - a) calculations correctly performed using four-digit year processing;
 - b) functionality on-line, batch, including but not limited to, entry, Inquiry, maintenance and updates support four-digit year processing;
 - c) Interfaces and reports must support four-digit year processing;
 - d) successful translation into year 2000 with valid date (e.g., CC/YY/MM/DD) without human intervention. Additional representations for weeks, hour, minute and second, if required, complies with the international standard ISO 8601:1988, "Date Elements and Interchange Formats - Information Exchange Representation of Dates and Time." When ordinal dates are used, the ISO standard format CCYYDDD is used;
 - e) processing with four digit year after transition to any date beyond the year 2000 without human intervention;
 - f) correct results in forward and backward date calculations spanning century boundaries;
 - g) correct leap year calculations;
 - h) correct forward and backward date calculations spanning century boundaries, including conversion of previous years stored, recorded or entered as two digits.
2. "Date integrity" shall mean all manipulations of time-related data (dates, duration, Days of week, etc.) will produce desired results for all valid date values within the application domain.
3. "Explicit century" shall mean data elements in interface and data storage permit specifying century to eliminate date ambiguity.
4. "General integrity" shall mean no value for current date will cause interruptions in desired operation, especially from the 20th to the 21st centuries.
5. "Implicit century" shall mean for any data element without century, the correct century is unambiguous for all manipulations involving that element.
6. "Product" or "products" shall be defined to include any supplied or supported hardware, software, firmware and/or micro code.

7. "Valid date" shall be defined as a date containing a four digit year, a two digit month and a two digit day, or the ISO 8601:1988, "Data Elements - Information Exchange Representation of Dates and Times." When ordinal dates are used, IO format CCYYDDD is used.

The Manufacturer(s) warrant that products required by this Contract shall be able to accurately process valid date data when used properly. Products under this Contract possess general integrity, date integrity, explicit and implicit century capabilities. Where the Contract requires that specific products must perform as a system, then the warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the State for breach of this warranty shall include repair or replacement of any product whose non-compliance is discovered by the Contractor or the State within 180 days from discovery.

Equipment Purchase	Payment Discount Off Manufacturer's List Price (All Hardware)	Payment Discount Off Manufacturer's List Price (All Software)
Equipment Manufacturer		
Adtran		
CSU/DSU Products	30%	30%
T1/FT1 Products	30%	30%
Accessories	10%	10%
Alcatel		
3x50 Mux Products	35%	35%
Check Point		
Non-Education	N/A	5%
Education	N/A	7%
Fujitsu		
Sonet Packages	25%	25%
Lucent		
Sonet Packages	25%	25%
Newbridge Networks		
Access Switch Products	35%	35%
ATM Switch Products	35%	35%
Nortel Networks (Bay Networks)		
Switch Products (Non-Education)	33%	33%
Switch Products (Education)	35%	35%
Hub Products (Non-Education)	33%	33%
Hub Products (Education)	35%	35%
Multi-Service Switch Products (Non-Education)	33%	33%
Multi-Service Switch Products (Education)	35%	35%
PictureTel		
Group & Compact Systems, MCUs & Streaming Products	21%	N/A

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Imux's Monitors, Carts, & Peripheral Products	1.25%	N/A
Desktop & LiveLan Products	3.75%	N/A
Software Products	N/A	23%
Cable Products	0%	N/A
PolyCom		
ViewStation Products	18%	N/A
ViewStation Accessories	1.25%	N/A
ShowStation IP Products	18%	N/A
ShowStation IP Accessories	18%	N/A
Accessories	18%	N/A
VTEL		
High-End Room Products	28%	N/A
Low-End Room Products	22%	N/A
Low-End Personal Products	10%	N/A
High-End Personal Products	14%	N/A
High-End WorkGroup Products	14%	N/A
Low-End WorkGroup Products	25%	N/A
Integrator System Products	22%	N/A
Software Products	N/A	20%
Accessories	1%	N/A

**Amendment No. 1
To
GSC Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the General Services Commission
("GSC")
And
Southwestern Bell Telephone Co.**

This Amendment No. 1 is by and between GSC and Southwestern Bell Telephone Co. (SWB) and is effective as of the date of the last signature below (Amendment Effective Date).

WHEREAS the State of Texas, acting by and through the General Services Commission and SWB entered into GSC Contract No. TEXAN 2000 – SWB – EPI dated August 31, 1999 (the "Agreement"); and

WHEREAS, as part of the Agreement SWB was to provide certain equipment sales to GSC , other state agencies and QOEs, as defined therein; and

WHEREAS, GSC and SWB now wish to enter into this Amendment No. 1 that will provide Installation services to GSC, other state agencies and QOEs, as defined.

NOW THEREFORE, GSC and SWB agree as follows.

1. Attachment A to this Amendment No. 1 is approved as the terms and conditions of the Installation services which may be ordered from SWB by GSC, other state agencies and QOEs, as defined in the Agreement. Attachment A to this Amendment No. 1 is to be added to the GSC Contract No. TEXAN 2000-SWB-EPI as if it originally appeared therein.
2. The terms and the conditions of the Agreement shall apply except as expressly amended in Section 1 above of this Amendment No. 1. In the event of any conflict between the Agreement and this Amendment No. 1, the order of precedence for governance is this Amendment No. 1 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, we hereby execute this Amendment No. 1 to be effective upon the date of the last party to sign.

State of Texas, acting by and

Southwestern Bell Telephone Company

through the General Services Commission

By: [Signature]

By: [Signature]

Name: Dorothy Executive Smith

Name: Charles H. Trammell

Date: 2-17-00

Date: 2/15/2000

Approved as to form:

[Signature] 2/14/00
Office of General Counsel
[Signature] 2/14/00
Fiscal Management

TOTAL P.01

09/19/00 TUE 14:10 [TX/RX NO 7512]

**Equipment Purchase
and/or Installation**

4.8.7.3 Equipment Installation Required Pricing Section

Equipment Installation Services	Simple System or Component: Install e.g., LAN node router, CSU/DSU, processor card, etc. (Approx. 2 hrs. Onsite)	Intermediate System or Component: Install, e.g., LAN/ network router, CSU/DSU card, etc. (Approx. 3 hrs. Onsite)	Complex System or Multi-Components: Install, e.g., core or distribution router, memory upgrades, etc. (Approx. 3 hrs. Onsite)
Austin, Dallas, Houston, or San Antonio			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 375.00	\$ 375.00	\$ 375.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 85.00	\$ 85.00	\$ 85.00
Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote Price
Abilene, Amarillo, Beaumont, College Station, Corpus Christi, El Paso, Lubbock, McAllen, Midland, Tyler, Waco, and Wichita Falls			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 425.00	\$ 425.00	\$ 425.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 150.00	\$ 150.00	\$ 150.00
Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote Price

Revised (02/00)

SOUTHWESTERN BELL EQUIPMENT INSTALLATION

Statement of Work

Installation Services Include:

- Staging and configuration of all equipment
- Connection of equipment to power outlets and network interfaces (LAN and WAN interface).
- Verify proper grounding of equipment rack(s) per manufacturer specifications.
- Power-up test of all equipment
- Conduct local loopback tests with equipment as required.
- Verify network connectivity (e.g., ping/extended ping test)
- Provide acceptance document
- Installation services conducted during normal business hours, Monday through Friday, 8am – 5pm.

Services Not Included:

- Network circuit testing
- Installation documentation (e.g., network diagrams, configurations, as-builts, etc.)
- Mounting and Installation of backboards, racks and network extensions (Demarc, LAN cabling, etc.)
- End-to-End application testing and certification.
- Project Management/Coordination

Customer Responsibilities:

- Site Survey should be completed by customer or vendor of choice, and provided prior to installations.
- Site Preparation and Circuit installation completed prior to scheduling of installation.
- Circuit Demarc must be within 15 feet within the same workspace where equipment is to be installed.
- Electrical outlets must be within 5 feet within the same workspace where equipment is to be installed and meet the respective vendor specifications/requirements.
- Insure proper grounding in compliance with industry standards is located within 15 feet of workspace where equipment is to be installed. Proper grounding of existing racks will be the customer's responsibility.
- Responsible for all equipment configurations (initial and post-installation).

Proprietary and Confidential: not for disclosure without written consent from Southwestern Bell Network Integration.

**Amendment No. 2
To
GSC Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the General Services Commission
("GSC")
And
Southwestern Bell Telephone Co.**

This Amendment No. 2 is by and between GSC and Southwestern Bell Telephone Co. (SWB) and is effective as of the date of the last signature below (Amendment Effective Date).

WHEREAS the State of Texas, acting by and through the General Services Commission and SWB entered into GSC Contract No. TEXAN 2000 -- SWB -- EPI dated August 31, 1999 (the "Agreement"); and

WHEREAS, the Agreement was amended by Amendment 1, dated February 14, 2000; and

WHEREAS, as part of the Agreement SWB is to provide certain equipment sales to GSC , other state agencies and QOEs, as defined therein; and

WHEREAS, as part of Amendment 1, SWB is to provide certain installation services; and

WHEREAS, GSC and SWB now wish to enter into this Amendment No. 2 to provide additional equipment to be provided by SWB, to clarify the term of the Agreement and to Amend Exhibit F to the Agreement to cover both equipment sales and installation services to GSC, other state agencies and QOEs, as defined.

NOW THEREFORE, GSC and SWB agree as follows.

1. That Article IV of the Agreement shall be and hereby is amended to read in its entirety as follows:

This Agreement shall be in effect upon the date of the last party to sign (August 31, 1999) and will continue for a period of three (3) years. GSC reserves the option to extend this Agreement for up to five (5) additional one year periods, not to exceed a total contract term of eight (8) years.

2. Attachment A to this Amendment No. 2 is approved as the terms and conditions of the equipment and installation services which may be ordered from SWB by GSC, other state agencies and QOEs, as defined in the Agreement. Attachment

A to this Amendment No. 2 is to be added to the GSC Contract No. TEXAN 2000-SWB-EPI as Amended Exhibit F as if it originally appeared therein.

- 2.3. The terms and the conditions of the Agreement shall apply except as expressly amended in Section 1 above of this Amendment No. 2. In the event of any conflict between the Agreement and this Amendment No. 2, the order of precedence for governance is this Amendment No. 2 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, we hereby execute this Amendment No. 2 to be effective upon the date of the last party to sign.

State of Texas, acting by and

Southwestern Bell Telephone Company

through the General Services Commission

By: Jim Muse

By: Charles H. Trammell

Name: Jim Muse

Name: Charles H. Trammell

Date: 6-29-00

Date: 6/22/2000

Approved as to form:

Charles H. Trammell
Office of General Counsel

William J. 6/22/00
Fiscal Management

5/29/00
Telecommunications Services Director

PAGE 2

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**AMENDED AND RESTATED EXHIBIT F
CLARIFICATION DOCUMENT PER SECOND AMENDMENT TO
TEXAN 2000 – SWB – EPI**

 **Southwestern Bell Telephone**

EQUIPMENT & SALES

1. This is Exhibit F, Clarification Document to the TEXAN 2000 – SWB – EPI Agreement ("Agreement") between Southwestern Bell Telephone Company (SWBT) and General Services Commission of the State of Texas (GSC). The term of this Agreement is from the Term Commencement Date, August 31, 1999, and has a primary term of three (3) years, with up to five (5) one (1) year extension options in favor of the State, not to exceed a total term of eight (8) years.

2. **DESCRIPTION OF SERVICE TO BE PROVISIONED, INSTALLED AND MAINTAINED: Telecommunications Equipment and Installation**

3. SWBT will sell Equipment for delivery to locations designated by GSC or the QOE within the state of Texas at the prices reflected in the attached pricing summary.

4. **EQUIPMENT AND SERVICES:** This Agreement covers the items of personal property and/or the Services described below and on any Purchase Order(s) executed between the parties, as well as any additions to and accessories and replacements for, the listed Equipment ("Equipment/Services"). Customer will be charged for any additions, deletions or changes ("Changes") in the Equipment/Services. If Customer desires a Change, Customer will notify SWBT by a Revised Purchase Order specifying changes. If SWBT does not receive the executed Revised Purchase Order, no changes will be made to the Customer order. Any increase or decrease in the price occasioned by a Change will be added to/subtracted from the amount of Customer's final invoice. Any Change involving the deletion of Equipment that was ordered by SWBT from a manufacturer on Customer account, previously shipped, and/or delivered to Customer will result in a restocking charge to Customer of not less than 20% of the selling price. After the date of the complete execution of this Clarification Document (i.e. last required signature), any changes requested by Customer after this date will be processed as a Change.

5. **OWNERSHIP OF EQUIPMENT:** Until Equipment is paid in full, Customer will not move the Equipment from the installed location and will permit SWBT to inspect the Equipment at any reasonable time and will keep the Equipment in good repair, condition and working order at Customer's expense. Until Equipment is paid for in full, the Equipment will also at all times remain the personal

property of SWBT and will not become a fixture even if it is affixed, attached, or installed in any real estate or improvements.

6. CERTAIN OTHER AGREEMENTS: Customer understands and agrees with SWBT as follows:

(a) **Installation:** SWBT is not responsible for Installation of the Equipment. GSC or QOE's designated Installation contractor shall be responsible for installation, warranty service and maintenance of the Equipment. Customer will arrange to have the Equipment delivered within 90 days from the date of this Agreement, and will provide a suitable and safe environment ready to accept the Equipment. SWBT has not included in SWBT's charges any expense for dealing with, removing or disposing of any potentially hazardous substance, such as asbestos. Customer will be responsible for any additional costs incurred to deal with such matters. Customer will obtain, at Customer expense, any necessary licenses, permits and consents (including any landlord or mortgagee's consents) in connection with the delivery of the Equipment.

(b) **Risk of Loss:** Customer bears the entire risk of loss, theft, destruction of or damage to the Equipment from any cause whatsoever. In the event of any loss or damage to the Equipment prior to SWBT being paid in full, Customer must either place the equipment in good condition and repair, replace the lost or damaged Equipment with like equipment in good condition and repair with clear title owned by SWBT or pay to SWBT an amount equal to all unpaid payments under this Agreement as of the time of such payment, in which case the Equipment will become the property of Customer and/or Customer insurer, as is and without any further warranty.

(c) **No Cancellation or Assignment:** Until paid in full, Customer may neither cancel this Agreement nor transfer nor lend any of the equipment nor permit it to be used by anyone other than Customer or Customer's employees. Customer may neither assign Customer's rights or duties nor encumber the Equipment without SWBT's written consent, which SWBT may withhold in SWBT's sole discretion. Subject to Customer's prior consent, SWBT may assign or subcontract all or part of SWBT's rights and obligations under this Agreement, provided that, without Customer's consent but upon prior notice to Customer, SWBT may assign or subcontract all or part of its rights and obligations to an affiliate under common control with SWBT. In the event of such assignment Customer will look only to the assignee for any further performance.

7. REPRESENTATIONS: Customer represents it will not export the Equipment outside the U.S.

8. LIMITED WARRANTIES AND LIMITATION OF LIABILITIES: SWBT warrants that it has good title to the Equipment, free of any claims, liens, encumbrances or security interests of any other party, and that the Equipment

conforms to the manufacturer's published specifications, and is free from electrical or mechanical defects in materials and workmanship under normal installation, use and service. After Equipment is installed, upon notice from Purchaser, SWBT will promptly replace Equipment failing to conform to or perform according to the manufacturer's with, at SWBT's option, new or used replacement parts or fully refund the purchase price. These are Purchaser's exclusive remedies for breach of warranty. However, SWBT is not the manufacturer of the Equipment and therefore, **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES SHALL BE LIMITED IN DURATION TO THE PERIOD OF THIS WRITTEN LIMITED WARRANTY. IN NO EVENT SHALL SWBT BE LIABLE FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, WHETHER FOR BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES OR OTHERWISE, INCLUDING DAMAGE TO PROPERTY AND, TO THE EXTENT PERMITTED BY LAW, DAMAGES FOR PERSONAL INJURY. IN NO EVENT WILL SWBT'S LIABILITY FOR DAMAGES CAUSED BY OR ARISING OUT OF ITS FAILURE TO SUPPLY MATERIAL OR PERFORM SERVICES IN A PROPER AND TIMELY MANNER EXCEED THE AMOUNT PAID BY CUSTOMER TO SWBT FOR SUCH MATERIAL AND SERVICES.**

Customer understands that SWBT's price reflects this limitation of liability.

This warranty does not include the following services:

- a. Repair of damage due to Customer's failure to provide adequate electrical power or environmental conditions.
- b. Repair of damages caused by misuse or neglect, improper installation, maintenance or service.
- c. Repair of damages caused by Customer's existing wiring or damage to the existing wiring.
- d. Repair of damage caused by accident and/or disaster, including but not limited to fire, flood, wind, lightning or water.
- e. Repair of damage caused by the attachment of mechanical, electrical or electronic equipment or devices to the system that are not supplied by SWBT.
- f. Repairs which are impractical for SWBT to render because of alterations in or attachments to the system.

Upon Customer's request and at SWBT's option, SWBT will provide any of the foregoing services at its then prevailing standard service rate therefor.

The Warranty provided under this Agreement does not insure uninterrupted operation of the Customer's telecommunications system. Except for the limited warranties set forth herein, the software is provided "as is" without warranty of

any kind, either express or implied. SWBT does not warrant that the software, including security software operate without error or will prevent third party hacking or access to Customer's networks.

Customer will be subrogated to any claims or rights SWBT may have against the manufacturer of the equipment for breach of any warranties or representations, and, upon Purchaser's written request, SWBT will take all reasonable actions to enforce on Purchaser's behalf any such express or Implied warranties or representations applicable to the Equipment, provided: (1) Customer is not in default of its obligations under this agreement; and (2) the Equipment has not been damaged as a result of misuse, abuse, neglect, accident, improper electrical voltages or currents, or repair, alteration or maintenance by any person or party other than an authorized service facility, or any use violative of the use instructions furnished with the Products by the SWBT or the manufacturer. If the Equipment has not yet been paid for in full, Customer also agrees to first apply all proceeds of any such warranty recoveries from the manufacturer to repair the Equipment.

Notwithstanding the foregoing limitations, SWBT shall:

- A. Indemnify Customer against any claim or threat of claim brought by any third party alleging the Products infringe such party's patents, trademarks or copyright ("the Intellectual Property"), providing that Purchaser: (a) shall have followed SWBT's reasonable instructions for use of the Intellectual Property associated with the Products; (b) shall not have modified the Products; (c) notifies SWBT promptly and in writing of any such claims; and (d) cooperates with and permits SWBT to control the defense, settlement or other handling of such claim or threatened claim. In the event one or more of the Products shall be found not to conform to the Intellectual Property warranty, Purchaser's sole remedy against SWBT shall be, at SWBT's option, for SWBT to: (a) defend Customer against such infringement claim; (b) to substitute other functionally equivalent products for the infringing units or modify the infringing units so that they no longer infringe; or (c) to accept return of the infringing units, providing Customer with credit for the depreciated value of any returned units.
- B. SWBT shall also indemnify Customer against any claim or threat of claim brought by a third party which arises out of any claim or suit for direct damages or relief on account of injury to or death of any person or damage to tangible personal or real property caused solely by SWBT's negligence or willful misconduct in the course of SWBT's performance under this contract

C. Year 2000 Performance Warranty

For purposes of the following warranty, the Contractor, Southwestern Bell Telephone, is not the manufacturer of the equipment and makes no separate express or implied warranties concerning Year 2000 issues. Contractor assigns to Department all manufacturer's warranties. Contractor shall not be liable for

any indirect or consequential damages, including any lost profits, loss of business income or revenues or damages for personal injury or property damage related or alleged to have been caused by Year 2000 issues. Contractor will work diligently and expeditiously to resolve any issues caused by Year 2000 Performance Issues, up to and including replacement of any hardware or software that is non-compliant thereby causing the products to not perform as designed for this Contract.

For purposes of this warranty, the following definitions shall apply:

1. "Accurately" shall be defined to include:
 - a) calculations correctly performed using four-digit year processing;
 - b) functionality on-line, batch, including but not limited to, entry, inquiry, maintenance and updates support four-digit year processing;
 - c) Interfaces and reports must support four-digit year processing;
 - d) successful translation into year 2000 with valid date (e.g., CC/YY/MM/DD) without human intervention. Additional representations for weeks, hour, minute and second, if required, complies with the international standard ISO 8601:1988, "Date Elements and Interchange Formats - Information Exchange Representation of Dates and Time." When ordinal dates are used, the ISO standard format CCYYDDD is used;
 - e) processing with four digit year after transition to any date beyond the year 2000 without human intervention;
 - f) correct results in forward and backward date calculations spanning century boundaries;
 - g) correct leap year calculations;
 - h) correct forward and backward date calculations spanning century boundaries, including conversion of previous years stored, recorded or entered as two digits.
2. "Date integrity" shall mean all manipulations of time-related data (dates, duration, Days of week, etc.) will produce desired results for all valid date values within the application domain.
3. "Explicit century" shall mean data elements in interface and data storage permit specifying century to eliminate date ambiguity.
4. "General integrity" shall mean no value for current date will cause interruptions in desired operation, especially from the 20th to the 21st centuries.
5. "Implicit century" shall mean for any data element without century, the correct century is unambiguous for all manipulations involving that element.

6. "Product" or "products" shall be defined to include any supplied or supported hardware, software, firmware and/or micro code.
7. "Valid date" shall be defined as a date containing a four digit year, a two digit month and a two digit day, or the ISO 8601:1988, "Data Elements - Information Exchange Representation of Dates and Times." When ordinal dates are used, IO format CCYYDDD is used.

The Manufacturer(s) warrant that products required by this Contract shall be able to accurately process valid date data when used properly. Products under this Contract possess general integrity, date integrity, explicit and implicit century capabilities. Where the Contract requires that specific products must perform as a system, then the warranty shall apply to those listed products as a system. The duration of this warranty and the remedies available to the State for breach of this warranty shall include repair or replacement of any product whose non-compliance is discovered by the Contractor or the State within 180 days from discovery.

Equipment Purchase	Percent Discount Off Manufacturer's List Price	Percent Discount Off Manufacturer's List Price
Equipment Manufacturer	(All Hardware)	(All Software)
Adtran		
CSU/DSU Products	30%	30%
T1/FT1 Products	30%	30%
Accessories	10%	10%
Alcatel		
3x50 Mux Products	35%	35%
Check Point		
Non-Education	N/A	5%
Education	N/A	7%
Fujitsu		
Sonet Packages	25%	25%
Lucent		
Sonet Packages	25%	25%
Newbridge Networks		
Access Switch Products	35%	35%
ATM Switch Products	35%	35%
Nortel Networks (Bay Networks)		
Switch Products (Non-Education)	33%	33%
Switch Products (Education)	35%	35%
Hub Products (Non-Education)	33%	33%
Hub Products (Education)	35%	35%
Multi-Service Switch Products (Non-Education)	33%	33%
Multi-Service Switch Products (Education)	35%	35%
PictureTel		
Group & Compact Systems, MCUs & Streaming Products	21%	N/A

Imux's Monitors, Carts, & Peripheral Products	1.25%	N/A
Desktop & LiveLan Products	3.75%	N/A
Software Products	N/A	23%
Cable Products	0%	N/A
PolyCom		
ViewStation Products	18%	N/A
ViewStation Accessories	1.25%	N/A
ShowStation IP Products	18%	N/A
ShowStation IP Accessories	18%	N/A
Accessories	18%	N/A
VTEL		
High-End Room Products	28%	N/A
Low-End Room Products	22%	N/A
Low-End Personal Products	10%	N/A
High-End Personal Products	14%	N/A
High-End WorkGroup Products	14%	N/A
Low-End WorkGroup Products	25%	N/A
Integrator System Products	22%	N/A
Software Products	N/A	20%
Accessories	1%	N/A

Equipment Purchase	Percent Discount Off Manufacturer's List Price (All Hardware)	Percent Discount Off Manufacturer's List Price (All Software)	Percent Discount Off Manufacturer's List Price (Maintenance)
Equipment Manufacturer			
Cisco	36%	36%	20%
Kentrox	35%	35%	0%
AAC-3 ATM Concentrator Products	35%	35%	0%
Access Concentrator Products	35%	35%	0%
CSU/DSU Products	35%	35%	0%
Network Management Products	35%	35%	0%
T-1 ATM Access Concentrator Products	35%	35%	0%
Accessories	10%	10%	0%

Equipment Purchase	Percent Discount Off Manufacturer's List Price (All Hardware)	Percent Discount Off Manufacturer's List Price (All Software)	Percent Discount Off Manufacturer's List Price (Maintenance)
Equipment Manufacturer			

Larscom			
Access-T Products	28%	28%	0%
Orion 2000 Products	17%	17%	0%
Orion 4000 Products	17%	17%	0%
Accessories	17%	17%	0%

SOUTHWESTERN BELL EQUIPMENT INSTALLATION

Statement of Work

Installation Services Include:

- Staging and configuration of all equipment
- Connection of equipment to power outlets and network interfaces (LAN and WAN interface).
- Verify proper grounding of equipment rack(s) per manufacturer specifications.
- Power-up test of all equipment
- Conduct local loopback tests with equipment as required.
- Verify network connectivity (e.g., ping/extended ping test)
- Provide acceptance document
- Installation services conducted during normal business hours, Monday through Friday, 8am – 5pm.

Services Not Included:

- Network circuit testing
- Installation documentation (e.g., network diagrams, configurations, as-builts, etc.)
- Mounting and Installation of backboards, racks and network extensions (Demarc, LAN cabling, etc.)
- End-to-End application testing and certification.
- Project Management/Coordination

Customer Responsibilities:

- Site Survey should be completed by customer or vendor of choice, and provided prior to installations.
- Site Preparation and Circuit installation completed prior to scheduling of installation.
- Circuit Demarc must be within 15 feet within the same workspace where equipment is to be installed.
- Electrical outlets must be within 5 feet within the same workspace where equipment is to be installed and meet the respective vendor specifications/requirements.
- Insure proper grounding in compliance with industry standards is located within 15 feet of workspace where equipment is to be installed. Proper grounding of existing racks will be the customer's responsibility.
- Responsible for all equipment configurations (initial and post-installation).

Equipment Installation Required Pricing Section

Equipment Installation Services	Simple System or Component Install i.e. leaf node router, CSU/DSU, processor card, etc. (Approx. 2 hrs. Onsite)	Intermediate System or Component Install, i.e. leaf network router, CSU/DSU shelf, etc. (Approx. 4 hrs. Onsite)	Complex System Multi-Component Install, i.e. core distribution router, memory upgrade, etc. (Approx. 6 hrs. Onsite)
Austin, Dallas, Houston, or San Antonio			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 375.00	\$ 375.00	\$ 375.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 85.00	\$ 85.00	\$ 85.00
Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote Price
Abilene, Amarillo, Beaumont, College Station, Corpus Christi, El Paso, Lubbock, McAllen, Midland, Tyler, Waco, and Wichita Falls			
0-25 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
26-50 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
51-150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Over 150 Miles Radius	\$ 500.00	\$ 750.00	\$ 1,000.00
Pre-site Survey and Site Drawing	\$ 425.00	\$ 425.00	\$ 425.00
Re-trip Cost - Site Survey	\$ 150.00	\$ 150.00	\$ 150.00
Re-trip Cost - Installation	\$ 500.00	\$ 750.00	\$ 1,000.00
Additional hourly out-of-scope rate (Engineering)	\$ 125.00	\$ 125.00	\$ 175.00
Additional hourly out-of-scope rate (Technician)	\$ 150.00	\$ 150.00	\$ 150.00

Equipment Delivery or Transportation Cost to Customer Site	1.75% of Quote Price	1.75% of Quote Price	1.75% of Quote
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**Amendment No. 3
To
Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the Department of Information Resources,
successor agency to the General Services Commission
("DIR")
And
Southwestern Bell Telephone Co.**

This Amendment No. 3 to Contract No. TEXAN 2000 – SWB – EPI, is by and between the Department of Information Resources (DIR) as successor agency to the General Services Commission (GSC) and Southwestern Bell Telephone Co. (SWB) and is effective as of the date of the last signature below (3rd Amendment Effective Date).

WITNESSETH:

WHEREAS the State of Texas, acting by and through the General Services Commission and SWB entered into GSC Contract No. TEXAN 2000 – SWB – EPI dated August 31, 1999 (the "Agreement"); and

WHEREAS, the Agreement was amended by Amendment 1, dated February 14, 2000 and Amendment No. 2, dated June 29, 2000; and

WHEREAS, by Act of the Texas Legislature effective September 1, 2001, the authority, duties and responsibilities for telecommunications for the State of Texas transferred from GSC to the Department of Information Resources (DIR), including all vendor contracts; and

WHEREAS, as part of the Agreement SWB is to provide certain equipment sales to qualified ordering entities authorized to participate in DIR's vendor contracts; and

WHEREAS, DIR and SWB now wish to enter into this Amendment No. 3 to provide updated pricing on equipment to be provided by SWB, as defined, and to modify certain terms and conditions to bring the Agreement into conformance with DIR's other vendor contracts.

NOW THEREFORE, DIR and SWB agree as follows.

1. Attachment A to this Amendment No. 3 is approved as the terms and conditions of the equipment which may be ordered from SWB by DIR, other state agencies and QOEs, as defined in the Agreement. Attachment A to this Amendment No. 3 is to be added to Contract No. TEXAN 2000-SWB-EPI as Amended Exhibit F (Equipment Pricing). It is the intent of the parties to substitute pages within the Contract for ease of administration. 2. Attachment B to this Amendment No. 3 is approved as the additional terms and conditions under which Contract No. TEXAN 2000 – SWB – EPI will be administered from and after the 3rd Amendment Effective Date. Attachment B - Exhibit H to Contract No. TEXAN

2000 – SWB – EPI – is to be added to Contract No. TEXAN 2000 – SWB – EPI as Exhibit H for ease of administration.

3. The terms and the conditions of the Agreement, as amended, shall apply except as expressly amended in Sections 1 and 2 above of this Amendment No. 3. In the event of any conflict between the Agreement and this Amendment No. 3, the order of precedence for governance is this Amendment No. 3, Amendment No. 2, Amendment No. 1 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, we hereby execute this Amendment No. 3 to be effective upon the date of the last party to sign.

State of Texas, acting by and

Southwestern Bell Telephone Company

through the Department of Information Resources

By: Patrick W. Hogan

By: J. N. Shelgren

Name: Patrick W. Hogan

Name: James N. Shelgren

Date: 11-01-01

Date: 11.01.01

ATTACHMENT B TO THIRD AMENDMENT AGREEMENT

Exhibit H

To TEXAN 2000 – SWB – EPI

Additional Terms and conditions to TEXAN 2000 – SWB – EPI, as amended.

- 1. Article II of the Contract is amended to add the following additional term:**

F. "Contract Administrator" means the individual appointed by DIR to administer this Contract on behalf of the State of Texas and the authorized QOEs.

- 2. Article III of the Contract is amended to add paragraphs E. and F. as follows:**

E. Price Guarantees

For orders received for single units, vendor shall apply the discount and/or pricing as stated in this Agreement, as amended. For orders larger than one unit, vendor and QOEs may negotiate quantity price discounts below the discounts and/or pricing as stated in this Agreement, as amended.

F. Administrative Fee

The Administrative Fee shall be included in the charges for the Goods and Services set forth in Exhibit F, the Clarification Document, on the website and quoted to QOE. Contractor's obligation to pay such amounts shall be suspended to the extent that its payment or collection violates any state or federal laws.

Contractor will pay DIR, on a monthly basis, the Fee based on a percentage of the sales price of Contractor sales to QOEs pursuant to this Contract. Payment is due based on sales, net of returns and credits. Contractor will provide payment to DIR five (5) business days after the end of each month. The Administrative fee is based on 1% of each sale of CISCO Products and 2% of each sale of all other manufacturers' products.

- 3. Article XIII of the Contract is amended to add paragraphs P. through KK. as follows:**

P. Records and Audit.

- a) Contractor shall maintain adequate records to establish compliance with this Contract until the later of a period of four years after termination of this Contract or until full, final and unappealable resolution of all audit or litigation issues that arise under this Contract. Such records shall include documentation of the date each QOE placed an order, identification of the ordering QOE, the product and quantity ordered, including the name of the product and the publisher or manufacturer of the product, the price quoted to the QOE for such order, the QOE purchase order number, the order date, ship date, MSRP, shipping address, the invoice sent to the QOE relating to the order, the record of QOE payment and/or balance due, the calculations supporting each administrative fee owed DIR under this Contract and such other documentation as DIR may require.
- b) Contractor shall grant access to all paper and electronic records, books, documents, accounting procedures, practices and any other items relevant to the performance of this Contract to DIR, the auditors designated by DIR, including auditors of the State Auditors' Office and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, auditing and/or copying such books and records. Copies and printouts requested by DIR shall be provided by Contractor without charge. DIR shall provide Contractor ten business days' notice prior to inspecting, auditing and/or copying Contractor's records. Contractor's records, whether paper or electronic, shall be made available during regular office hours. Contractor personnel familiar with the Contractor's books and records shall be available to DIR staff and designees as needed to explain the books and records to the extent necessary for the audit or inspection to be performed. Contractor shall provide adequate office space to DIR staff during the performance of an audit.
- c) If any inspection or audit performed hereunder reveals an aggregate overcharge to QOEs of .5% or greater, or an aggregate underpayment to DIR of its administrative fee of .5% or greater, then the cost of such audit or inspection, including, but not limited to, the salary and associated overhead of DIR staff performing the audit or inspection, shall be reimbursed to DIR within thirty days from receipt of an invoice from DIR reflecting the cost of the audit or inspection.
- d) In the event of a discrepancy between the amount determined by the Texas Comptroller of Public Accounts as having been paid to Contractor on behalf of a QOE and the amount Contractor calculates DIR's administrative fee provided for such QOE, the amount reflected by the Comptroller of Public Accounts shall be presumed correct unless

Contractor can demonstrate to DIR's satisfaction that Contractor's calculation of DIR's administrative fee is correct.

- Q. Web Site Maintenance.** Contractor agrees to maintain and support an Internet website with Product pricing, configuration assistance, Product descriptions and Product specifications. Pricing on the Internet website shall include the DIR Administrative Fee.
- R. Change In Contractor Representatives.** Contractor shall appoint a primary representative to work with the Contract Administrator to maintain, support and market this Contract. DIR reserves the right to request a change in Contractor's then-current primary representative if the assigned representative is not, in the opinion of the DIR, serving the needs of the State of Texas and the QOE's adequately.
- S. Confidentiality.** Contractor acknowledges that DIR is a government agency subject to the Texas Public Information Act. Contractor also acknowledges that DIR will comply with the Public Information Act and with all opinions of the Texas Attorney Generals' office concerning this Act.

Under the terms of this Contract DIR may provide Contractor with information related to DIR QOE's. Contractor shall comply with all DIR Privacy Policy Guidelines, including, but not limited to, the requirement that Contractor shall not re-sell or otherwise distribute or release to any party in any manner DIR or QOE's information.

- T. FCC Certification.** Contractor agrees that machines supplied by Contractor comply with applicable FCC regulations.
- U. Survival.** Warranty and Service agreements that were entered into between Contractor and a QOE's under the terms and conditions of this Contract shall survive the termination of this Contract.
- V. Notification.** Either party may give written notice to the other party in accordance with the terms of this paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three business days after being mailed.

<u>To DIR:</u> Bill Peek P.O. Box 13564 Austin, Texas 78711	<u>To Contractor:</u>
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Either party may change its representative or address above by written notice.

W. Administration Reporting and Fees. Contractor agrees to provide monthly Contract utilization reports to the Contract Administrator in accordance with the following schedule. The reports will be due five business days after the end of each month.

- a) A monthly report shall state the sales under the contract for the period. The report shall be accompanied with a check payable to Texas Department of Information Resources for the calculated Administrative Fee.
- b) A detail sales report will be issued monthly that includes no less than each QOE's, Order Date, Ship Date, Manufacturer, Quantity, QOE's Price, Extended Price, MSRP, QOE's Purchase Order Number, Shipping Address, and other information as required by DIR.
- c) Reports as required by DIR that will reflect the amount of work being subcontracted to Historically Underutilized Businesses, as defined by Texas State law.

All reports are to be submitted electronically as defined by DIR.

The failure to file the utilization reports and fees on a timely basis shall constitute grounds for suspension of the Contract or termination of the Contract for cause. Contractor's liability for any breach of this Section shall not under any circumstances exceed the amount of Administrative Fees owed to DIR by Contractor.

X. Contractor Certifications . Contractor certifies (i) it has not given, offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract; (ii) it is not currently delinquent in the payment of any franchise tax owed the State of Texas and is not ineligible to receive payment under § 31.006 of the Texas Family Code and acknowledges this Contract may be terminated and payment withheld if this certification is inaccurate; (iii) neither it, nor anyone acting for it, has violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage; (iv) it has not received payment from DIR or any of its employees for participating in the preparation of this Contract; and (v) during the term of this Contract, it will not discriminate unlawfully against any employee or applicant and that, upon request it will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

Y. DIR Logo. Contractor may use the DIR logo in the promotion of this Contract to QOEs with the following stipulations:

- a) The logo may not be modified in any way;
- b) When displayed, the size of the DIR logo must be equal to or smaller than the Contractor logo;
- c) The sole use of the DIR logo will be to communicate the availability of Software and Services available under this Contract to QOEs; and
- d) Any other use of the DIR logo requires prior written permission from DIR.

Z. Technology Access, as required by § 2157.005, Texas Government Code. The Contractor expressly acknowledges and agrees that State funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, the Contractor represents and warrants to DIR and each QOEs purchasing products under this Contract that the technology provided hereunder is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology of: (1) providing equivalent access for effective use by both visual and nonvisual means; (2) presenting information, including prompts

used for interactive communications, in formats intended for nonvisual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical display and customizable display appearance.

- AA. Commodity Software.** Texas Government Code, § 2157.068 requires State Agencies to buy commodity software in accordance with contracts developed by DIR unless the agency obtains a waiver from DIR. Therefore, Contractor agrees to coordinate all commodity software sales made coincident to this agreement through existing DIR contracts if available.
- BB. Dispute Resolution.** The dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used to attempt to resolve any claim for breach of contract made by the Contractor that is not resolved in the ordinary course of business.
- CC. Preference to Texas Products.** Vendor agrees to comply with Sections 2155.444 and 2155.4441, Texas Government Code.
- DD. Training.** The Contractor may be required to provide product overview training to DIR at no cost. The training will be held within the Austin area at times acceptable to DIR.
- EE. Ability to Conduct Business in Texas.** The Contractor is an entity authorized and validly existing under the laws of its state of organization, is authorized to do business in Texas, and is not in default as to taxes owed to the State of Texas or any of its political subdivisions.
- FF. Payment of Debts owed the State.** Contractor acknowledges and agrees that, to the extent Contractor owes any debt or delinquent taxes to the State of Texas, in accordance with § 403.055(h), Texas Government Code, any payments Contractor is owed under this Contract will be applied by the Comptroller of Public Accounts toward any debt or delinquent taxes Contractor owes the State of Texas until the debt or delinquent taxes are paid in full.

GG. Vendor is QISV. Contractor is a "Qualified Information Systems Contractor" as defined in § 2157.001, Texas Government Code. All Information Resources Technologies offered to QOE's under this Contract are listed in Contractor's catalogue on file with the General Services Commission.

HH. Suit Or Pending Proceedings. To the best of the Contractor's knowledge and belief, there are no suits or proceedings pending or threatened against or affecting the Contractor, which if determined adversely to the Contractor will have a material adverse effect on the ability of the Contractor to fulfill its obligations under the Contract.

II. Trade Shows. Vendor understands and agrees that it must participate fully by providing a staffed booth display or similar presence at no less than two trade shows or similar functions sponsored by DIR each calendar year, at Vendor's expense. Vendor agrees to display the DIR logo at all trade shows directed toward entities that qualify as DIR customers.

JJ. Shipment and Risk of Loss. The QOE may request expedited shipping for an additional charge.

KK. Impracticability of Performance. A QOE may terminate a Purchase Order for convenience under Article IX B., if it is determined by the QOE that Vendor will not be able to deliver product or services in a timely manner to meet the business needs of the QOE.

Equipment Purchase	Percent Discount On Manufacturer's List Price	Percent Discount On Manufacturer's List Price	Percent Discount On Manufacturer's List Price
Equipment Manufacturer	(All Hardware)	(All Software)	(Maintenance)
Adtran			
Multiplexing products	30%	30%	0%
Accessories Accessories Accessories	10%	10%	0%
Alcatel/Newbridge			
Access Switch Products	35%	35%	0%
OmniSwitch/OmniCore Products	35%	**PS	0%
Optical Transport Products	25%	0%	0%
** PS (Product Specific with discounts from 10-35%)			
Check Point	N/A	7%	0%
Cisco	36%	36%	20%
Fujitsu	25%	25%	0%
Kentrox	35%	35%	0%
Accessories	10%	10%	0%
Larcom			
Access-T Products	28%	28%	0%
Orion Products	17%	17%	0%
Accessories	17%	17%	0%
Lucent			
Sonet Packages	25%	25%	0%
Newbridge Networks	SEE ALCATEL LISTING ABOVE		
Nortel Networks (Bay Networks)	35%	35%	10%
PictureTel			
PT 680, 960, 970			
ACCORD MGC 50, 100	35%	N/A	0%
Miscellaneous add-ons and Peripherals	10%	N/A	0%
Upgrades and other add-ons	15%	N/A	0%
Team Station 128, 384	30%	N/A	0%
Live LAN, Live Share & Live Manager	32%	N/A	0%

Equipment Purchase	Percent Discount Off Manufacturer's List Price	Percent Discount Off Manufacturer's List Price	Percent Discount Off Manufacturer's List Price
Equipment Manufacturer	(All Hardware)	(All Software)	(Maintenance)
PolyCom			
ViewStation - H.323, 128, 512, MP, V.35			
ViewStation 4000 H.323, V.35, PRI	43%	N/A	0%
ViewStation SP 128, 512	20%	N/A	0%
ViaVideo	25%	N/A	0%
Education Packages (S,M,L)	15%	N/A	0%
Services/Warranty	0%	N/A	0%
ViewStation MP DCP, H.323	30%	N/A	0%
VTEL			
Discount for Galaxy RL & XL Enhancement Pkgs, ESA TC2000 & LC5000 Enhancement Pkgs, H.320 MCUs.	36%	0%	0%
Discount for Galaxy PL, Galaxy SL, Galaxy CL systems, ESA Platforms, ESA Single Carted Systems, ESA Model 50, SVNMs.	25%	0%	0%
Discount for Galaxy MT, H.323 MCUs, Gateways, Encounter	15%	0%	0%
Discount for all system options & field upgrades, Galaxy CL-100 Enhancement Package, Galaxy CL-200 Enhancement Package.	5%	0%	0%
Services/Warranty	0%	0%	0%

*Please note that the Galaxy nomenclature has changed:

Galaxy PL	Galaxy Platform System
Galaxy MT	Galaxy MiniTower
Galaxy SL	Galaxy Single Carted System (formerly Galaxy 755)
Galaxy RL	Galaxy RL Enhancement Package (formerly Galaxy 2500 enhancement)
Galaxy XL	Galaxy XL Enhancement Package (formerly Galaxy 5500 enhancement)
Galaxy CL	Galaxy Classroom System

Amendment No. 4
To
DIR Contract No. TEXAN 2000-SWB-EPI
Between
State of Texas, acting by and through the Department of Information Resources ("DIR")
And
Southwestern Bell Telephone Co. ("SBC")

This Amendment No. 4 to Contract No. TEXAN 2000-SWB-EPI, is by and between the Department of Information Resources (DIR) and Southwestern Bell Telephone Co. (SBC) and is effective as of September 1, 2002.

The parties agree to amend Contract No. TEXAN 2000-SWB-EPI as follows:

1. The Agreement is hereby extended through the period ending August 31, 2004, or until terminated pursuant to the termination clauses contained in the Agreement. DIR reserves the option to extend this Agreement for up to three (3) additional one-year periods, not to exceed a total contract term of eight (8) years, (August 31, 2007).
2. The following Section, Article XIII. MISCELLANEOUS, of the Agreement is hereby modified:

Add paragraph in its entirety –

P. HANDLING OF WRITTEN COMPLAINTS. In addition to other remedies contained in this Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office
Department of Information Resources
Attn: Matt Kelly
300 W. 15th Street, Suite 1300
Austin, TX 78701
(512) 936-6550, voice
(512) 475-4759, fax
Email: matt.kelly@dir.state.tx.us

3. The terms and conditions of the Agreement, as amended, shall apply except as expressly amended in Section 1 and 2 above of this Amendment No. 4. In the event of any conflict between the Agreement and this Amendment No. 4, the order of precedence for governance is this Amendment No. 4, Amendment No. 3, Amendment No. 2, Amendment No. 1 and the Agreement. All other provisions of the Agreement not expressly amended hereby remain in full force and effect.

IN WITNESS WHEREOF, this Amendment has been executed by the duly authorized representatives of the parties and is in full force and effect as of September 1, 2002.

**SOUTHWESTERN BELL
TELEPHONE CO.**

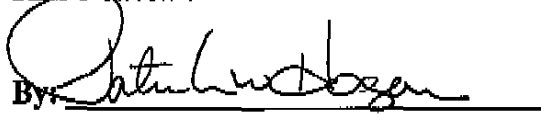
By: 

Name: William F. PENAK

Title: Global Account Director

Date: 5/5/03

**STATE OF TEXAS
acting by and through the
DEPARTMENT OF INFORMATION
RESOURCES**

By: 

Name: Patrick W. Hogan

Title: Director of Business Operations

Date: 5/2/03

Legal: gln 5/1/03

ATTACHMENT 2

Block 5: Item 21
Attachment
5
2003

Applicant: Kingsville ISD
Entity # : 141586
471 Application#: 369934

Service Provider : Southwestern Bell Telephone
SPIN Number : 143004662

Kingsville ISD E-rate round 6
Southwestern Bell SPIN # 143004662.

**Administration****Administration -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty.</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Price</u>
WS-C6509	Catalyst 6509 Chassis	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
WS-CAC-1300W	Catalyst 6000 1300W AC Power Supply	1	40%	\$3,995.00	\$ 2,397.00	\$ 2,397.00
WS-CAC-1300W/2	Catalyst 6000 Second 1300W AC Power Supply	1	40%	\$3,995.00	\$ 2,397.00	\$ 2,397.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
S6S22ZK2-12113E	Catalyst 6000 SUP2/MSFC2 IOS SP W/VIP SSH 3DES	1	40%	\$0.00	\$ -	\$ -
WS-X6K-S2U-MSFC2	Cat6K Sup2 with 256MB DRAM on Sup2 and MSFC2	1	40%	\$26,795.00	\$ 16,077.00	\$ 16,077.00
MEM-C6K-ATA-1-64M	Cat 6500 Supervisor ATA Type1 Flash Mem Card, 64MB	2	40%	\$400.00	\$ 240.00	\$ 480.00
WS-X6K-S2U-MSFC2/2	Redundant WS-X6K-S2U-MSFC2 (In Chassis Only)	1	40%	\$26,795.00	\$ 16,077.00	\$ 16,077.00
WS-X6408A-GBIC	Catalyst 6000 8-port GE, Enhanced QoS (Req. GBICs)	2	40%	\$9,995.00	\$ 5,997.00	\$ 11,994.00
WS-X6148-RJ45V	Catalyst 6500 48-port 10/100 Inline Power, RJ-45	3	40%	\$7,495.00	\$ 4,497.00	\$ 13,491.00
WS-X6182-2PA	Catalyst 6000 FlexWAN Module	1	40%	\$15,000.00	\$ 9,000.00	\$ 9,000.00
PA-MC-8T1	8 port multichannel T1 port adapter with integrated CSU/DSUs	1	40%	\$11,600.00	\$ 6,960.00	\$ 6,960.00
MEM-C6K-WAN-128M	Catalyst 6000 WAN Module Memory, 128 MB	2	40%	\$1,800.00	\$ 1,080.00	\$ 2,160.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	14	40%	\$500.00	\$ 300.00	\$ 4,200.00
MEM-MSFC2-256MB	MSFC2 256MB Memory Option	2	40%	\$2,400.00	\$ 1,440.00	\$ 2,880.00
CON-SNT-WS-C6509	8x5xNBD Service, Catalyst 6509	1	100%	\$6,500.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 1,265.00
SUB-TOTAL=					\$ 95,375.00	

HENRIETTA M. KING**Henrietta M. King -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot), fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV, (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
S4KL3E-12112EW	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF, IGRP, EIGRP)	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$ 240.00	\$ 240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	2	40%	\$5,995.00	\$ 3,597.00	\$ 7,194.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	1	40%	\$2,995.00	\$ 1,797.00	\$ 1,797.00

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	6	40%	\$500.00	\$	300.00	\$	1,800.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot), fan, no p	1	100%	\$2,638.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	660.00

Henrietta M. King -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	2	40%	\$4,995.00	\$	2,997.00	\$	5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	2	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	600.00

Henrietta M. King -- IDF2

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	3	40%	\$4,995.00	\$	2,997.00	\$	8,991.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	2	40%	\$500.00	\$	300.00	\$	600.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	3	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	900.00

Henrietta M. King -- IDF3

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Henrietta M. King -- IDF4

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=**\$ 67,200.00****MEMORIAL MIDDLE SCHOOL****Memorial Middle School -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot), fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV, (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00

* Firr* year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

S4KL3E-12112EW

	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF,IGRP,EIGRP)	1	40%	\$9,995.00	\$	5,997.00	\$	5,997.00
MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$	240.00	\$	240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	3	40%	\$5,995.00	\$	3,597.00	\$	10,791.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	1	40%	\$2,995.00	\$	1,797.00	\$	1,797.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	5	40%	\$500.00	\$	300.00	\$	1,500.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot),fan, no p	1	100%	\$2,638.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	660.00

Memorial Middle School -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	2	40%	\$4,995.00	\$	2,997.00	\$	5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	2	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	600.00

Memorial Middle School -- IDF2

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Memorial Middle School -- Lab

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=**\$ 59,532.00****GILLETTE INTERMEDIATE SCHOOL****Gillette Intermediate School -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot),fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE),Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV,(2 GE),Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
S4KL3E-12112EW	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF,IGRP,EIGRP)	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$	240.00	\$	240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	2	40%	\$5,995.00	\$	3,597.00	\$	7,194.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	2	40%	\$2,995.00	\$	1,797.00	\$	3,594.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	10	40%	\$500.00	\$	300.00	\$	3,000.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot), fan, no p	1	100%	\$2,638.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	660.00
Gillette Intermediate School -- IDF1								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00
Gillette Intermediate School -- IDF2								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00
Gillette Intermediate School -- IDF3								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00
Gillette Intermediate -- IDF4								
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	2	40%	\$4,995.00	\$	2,997.00	\$	5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilaye	2	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	600.00
IDF GYM								
WS-C2950G-12-EI	Catalyst 2950, 12 10/100 with 2 GBIC slots, Enhanced Image	1	40%	\$2,295.00	\$	1,377.00	\$	1,377.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C2950G12	8x5xNBD Svc, WS-C2950G-12	1	100%	\$ 200.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Gillette Intermediate -- 501

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WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

IDF #5

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$	237.00	\$	474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

IDF 403

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

IDF #6

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=

\$ 79,668.00

KEYES ACADEMY**Keyes Academy -- MDF**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>		<u>Disc. Price</u>		<u>Ext. Cost</u>
WS-C3550-48-EMI	48-10/100 and 2 GBIC ports:Enhanced Multilayer SW Image	1	40%	\$6,990.00	\$	4,194.00	\$	4,194.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	2	40%	\$500.00	\$	300.00	\$	600.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

Keyes Academy -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports:Std Multilayer SW Image	1	40%	\$4,995.00	\$	2,997.00	\$	2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$	300.00	\$	300.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports:Std Multilayer	1	100%	\$ 400.00	\$	-	\$	-
	On-site Installation, configuration and testing						\$	300.00

SUB-TOTAL=

\$ 8,691.00

PEREZ ELEMENTARY SCHOOL

* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

Perez Elementary MDF

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C4507R	Catalyst 4500 Chassis (7-Slot), fan, no p/s, Red Sup Capable	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
PWR-C45-1300ACV	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
PWR-C45-1300ACV/2	Catalyst 4500 1300W AC Power Supply with Int Voice	1	40%	\$1,495.00	\$ 897.00	\$ 897.00
CAB-7513AC	AC POWER CORD NORTH AMERICA	2	40%	\$0.00	\$ -	\$ -
WS-X4515	Catalyst 4000 Supervisor IV (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
WS-X4515/2	Catalyst 4507R Redundant Supervisor IV, (2 GE), Console(RJ-45)	1	40%	\$13,495.00	\$ 8,097.00	\$ 8,097.00
S4KL3E-12112EW	Cisco IOS ENHANCED L3 SW C4000 SUP 3/4 (OSPF, IGRP, EIGRP)	1	40%	\$9,995.00	\$ 5,997.00	\$ 5,997.00
MEM-C4K-FLD64M	Catalyst 4000 Sup III/IV Compact Flash Disk, 64MB Option	1	40%	\$400.00	\$ 240.00	\$ 240.00
WS-X4148-RJ45V	Catalyst 4000 Inline Power 10/100, 48-Ports (RJ45)	2	40%	\$5,995.00	\$ 3,597.00	\$ 7,194.00
WS-X4306-GB	Catalyst 4000 Gigabit Ethernet Module, 6-Ports (GBIC)	1	40%	\$2,995.00	\$ 1,797.00	\$ 1,797.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	3	40%	\$500.00	\$ 300.00	\$ 900.00
CON-SNT-WS-C4507	8x5xNBD Svc, Catalyst 4500 Chassis (7-Slot), fan, no p	1	100%	\$2,638.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 660.00

Perez Elementary -- IDF1

WS-C3550-48-SMI	48-10/100 and 2 GBIC ports: Std Multilayer SW Image	2	40%	\$4,995.00	\$ 2,997.00	\$ 5,994.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$ 300.00	\$ 300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$ 237.00	\$ 474.00
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports: Std Multilayer	2	100%	\$ 400.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 600.00

SUB-TOTAL=**\$ 48,141.00****Laser**

<u>Product</u>	<u>Description</u>	<u>Qty</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
WS-C3550-48-EMI	48-10/100 and 2 GBIC ports: Enhanced Multilayer SW Image	1	40%	\$6,990.00	\$ 4,194.00	\$ 4,194.00
WS-C3550-48-SMI	48-10/100 and 2 GBIC ports: Std Multilayer SW Image	1	40%	\$4,995.00	\$ 2,997.00	\$ 2,997.00
WS-G5484	1000BASE-SX Short Wavelength GBIC (Multimode only)	1	40%	\$500.00	\$ 300.00	\$ 300.00
WS-G5483=	1000BASE-T GBIC	2	40%	\$395.00	\$ 237.00	\$ 474.00
CON-SNT-C3550-48E	8x5xNBD Svc, 48-10/100 and 2 GBIC ports: Enhanced Mult	1	100%	\$623.00		
CON-SNT-C3550-48S	8x5xNBD Svc, 48-10/100 and 2 GBIC ports: Std Multilayer	1	100%	\$ 400.00	\$ -	\$ -
	On-site Installation, configuration and testing					\$ 600.00

SUB-TOTAL=**\$ 8,565.00****KLEBERG ELEMENTARY SCHOOL****Kleberg Elementary MDF**

<u>Product</u>	<u>Description</u>	<u>Quan</u>	<u>Discount</u>	<u>List Price</u>	<u>Disc. Price</u>	<u>Ext. Cost</u>
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* First year of Cisco SmartNet maintenance is free with a copy of E-Rate form 471 on file at SBC DataComm.

ATTACHMENT 3

Kingsville Independent School District

Fax Cover



P.O. Box 871 Phone (361)592-3387
Kingsville, TX 78364 Fax (361) 516-0278

Date: 2/12/2003
To: Richard Latwell
Company: SBC DataComm
Fax Number: 361-581-7066

Phone Number: _____

From: Dorothy Stroich
Department: Office of Instructional Technology
Number of Page(s) (including cover sheet) 4

Message:

Richard
Here is the signed contract - Thanks
Dorothy

Handwritten notes:
fled 2/12/2003
by Joe
will need to
work on
Numbers
2/13/2003

Please call if you experience any transmission problems. Thank you!

ATTACHMENT 5

USAC Denial of Appeal Letter



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

November 06, 2009

Emilio Castro
Kingsville Independent School District
P. O. Box 871/207 N. Third
Kingsville, TX 78363

Re: Applicant Name: KINGSVILLE INDEP SCHOOL DIST
Billed Entity Number: 141586
Form 471 Application Number: 369934
Funding Request Number(s): 1043026, 1043201, 1043284, 1043345, 1043393,
1043491, 1043533, 1043598
Your Correspondence Dated: June 16, 2009

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2003 Commitment Adjustment Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1043026, 1043201, 1043284, 1043345, 1043393,
1043491, 1043533, 1043598

Decision on Appeal: **Denied**
Explanation:

- Upon review of your appeal, it was determined that the Form 471 certification was signed and postmarked on February 6, 2003. Program rules required that a binding agreement with the service provider be in place at the time of the submission of the Form 471 Certification. In addition to state or local procurement regulations, applicants must also follow the rules of the Schools and Libraries Universal Service Support Mechanism to be eligible for program discounts. During the appeal review process, USAC gave you the opportunity to demonstrate that a legally binding agreement, meeting the Commission's contract requirements, was in place before the submission of your Form 471 Certification. On October 30, 2009, you submitted a response stating that you were unable to

recover additional physical documentation of an agreement with SBC Datacomm beyond the documents already provided. According to USAC records, there is no evidence that a binding agreement with SBC Datacomm, Inc. for Funding Year 2003 was in effect before the signing and submission of the Form 471. It is evident that your school did not follow the Program's competitive bidding rules as prescribed.

- SLD has determined that, at the time you submitted your Form 471 application, you did not have a signed contract or legally binding agreement for services in place with your service provider(s) for services other than tariffed or month-to-month services. FCC rules require that applicants submit a completed FCC Form 471 "upon signing a contract for eligible services." 47 C.F.R. § 54.504(c). The FCC has consistently upheld SLD's denial of Funding Request Number(s) when there is no contract or legally binding agreement in place for the funding requested.¹ The FCC Form 471 instructions under Block 5 clearly state that you MUST have a signed contract or a legally binding agreement for all services that you order on your Form 471 except tariffed services and month-to-month services.² You did not provide evidence with your appeal that, at the time you signed your Form 471, you had signed a contract or legally binding agreement for eligible services. Consequently, SLD denies your appeal.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either USAC or the FCC. For appeals that have been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

¹ *Request for Review by Waldwick School District, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-256981, CC Docket Nos. 02-6, Order, 18 FCC Rcd. 22,994, DA 03-3526 (2003).

² See Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (December 2002) at page 20.

Daniel L. Farslow
E-Rate Central - Midwest
1285 Bluff Avenue
Columbus, OH 43212

Billed Entity Number: 141586
Form 471 Application Number: 369934
Form 486 Application Number:

ATTACHMENT 6

Fax Cover Memo

Kingsville Independent School District

Fax Cover



P.O. Box 871 Phone (361)592-3387
Kingsville, TX 78364 Fax (361) 516-0278

Date: 2/12/2003
To: Richard Latwell
Company: SBC DataComm
Fax Number: 361-581-7066

Phone Number: _____

From: Dorothy Stroich
Department: Office of Instructional Technology
Number of Page(s) (including cover sheet) 4

Message:

Richard
Here is the signed contract - Thanks
Dorothy

Handwritten notes:
fled 2/12/2003
by Joe
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Numbers
2/13/2003

Please call if you experience any transmission problems. Thank you!